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August 27, 2014

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Hon. Heather McTeer Toney  
Regional Administrator  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Mail Code: 9T25  
Atlanta, Georgia 30303-8960

RECEIVED  
RA's Office

Dear Ms. Toney,

Please find enclosed ABC Coke's response to GASP's Petition for a Preliminary Assessment of Release of Hazardous Substances in Tarrant and Inglenook, Alabama, which was filed with the EPA on July 1, 2014. Thank you for the opportunity to respond. Please do not hesitate to contact me with any questions you may have.

Sincerely,

Richard Edward Glaze, Jr.

REG,JR:dls

cc: Drummond Company  
ABC Coke, Inc.  
Steven G. McKinney  
Robert B. McKinstry, Jr.

**BEFORE THE REGIONAL ADMINISTRATOR OF THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

<b>GASP, Dorothy Davis, and Eddie Jimmy</b>	)
<b>Hollaway,</b>	)
	)
<b>Petitioners.</b>	)
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**RESPONSE ON BEHALF OF ABC COKE TO GASP'S PETITION FOR PRELIMINARY  
ASSESSMENT OF RELEASE OF HAZARDOUS SUBSTANCES**

The Environmental Protection Agency ("EPA" or the "agency") should deny the Petition for Preliminary Assessment of Release of Hazardous Substances (the "Petition") filed with the agency on July 1, 2014, by GASP and two of its members, Ms. Dorothy Davis and Mr. Eddie Jimmy Hollaway (collectively, the "Petitioners"), requesting that EPA perform a preliminary assessment ("PA") of an area near the ABC Coke facility in Tarrant, Alabama, ("ABC Plant") under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.* because neither the Petition nor the available evidence that would be used in a PA shows that there has been any release of hazardous substances at or from the ABC Plant that might cause a potential hazard to public health or the environment. In fact, both EPA's soil sampling data taken at the ABC Plant and health and risk assessments of air quality in the area support the conclusion that there has not been a release and there is no threat of a release from or at the ABC Plant that could conceivably require a response action.

The Petition is based wholly on a speculative line of reasoning that, if taken to its illogical conclusion, would have EPA conduct a PA around every facility in the nation regulated under section 112 of the Clean Air Act ("CAA"). In this case, GASP's Petition seeks to have EPA declare all the

residential property between the ABC Plant and the Birmingham Airport (the "Petitioned Area") a Superfund site. The Petition alleges that "[t]hroughout its operational history, the ABC Coke facility has emitted toxic and hazardous pollutants into the air", which "have been carried by wind currents and deposited onto the soil, structural surfaces, and gardens of residential properties in Tarrant." The pollutants listed in the Petition include arsenic, lead and polycyclic organic matter, including benzo[a]pyrene and other polycyclic aromatic hydrocarbons ("PAHs"). This rationale could be applied to virtually any of the thousands of facilities that are regulated under section 112 for those pollutants and is inconsistent with the recent risk assessments that concluded that there are no unacceptable health risks from air emissions in or around the ABC Plant.

The Petition is founded upon the false assumption that the contamination in the Collegeville, Fairmont and Harriman Park neighborhoods around the Walter Coke facility, which EPA has identified as the 35<sup>th</sup> Avenue Superfund Site, will also be found in the residential areas of Inglenook and Tarrant without citing any evidence of contamination in these areas. The analogy is false because the conditions around the 35<sup>th</sup> Avenue Superfund Site bear no relation to those near the ABC Plant. First, the Walter Coke and U.S. Pipe facilities, which formerly were part of a single facility, include landfills and waste piles, on-site soil contamination, groundwater contamination, a heavily contaminated ditch that floods, and a history of foundry and metal-working facilities which melted scrap automobiles, as well as a coke plant that has disposed of solid waste on-site and which is undergoing RCRA corrective action. Second, the residential areas designated as the 35<sup>th</sup> Avenue Superfund Site directly abut the Walter and U.S. Pipe plants and at least some of the areas were formerly owned by their predecessor company, Sloss Industries. In contrast, the conditions at the ABC Plant and in the Petitioned Area are entirely different. The ABC Plant has: an excellent environmental compliance record; no waste piles or landfills; no metal working processes that would produce the type of soil contamination or waste piles found at the 35<sup>th</sup>

Avenue Superfund Site; follows a strict policy against allowing fill to be disposed of on or off-site; and practices waste reduction by re-incorporating all potential waste materials into its process. Moreover, while residential properties directly abut the Walter Coke and U.S. Pipe plants, the nearest receptors to the ABC Plant are remote and are separated from the ABC Plant both by vacant properties and a wide and busy highway.

Most significantly, EPA sampling of soils within the ABC Plant property has shown that the soils on the plant site are not contaminated. As part of its investigation of Five Mile Creek and the 35<sup>th</sup> Avenue Superfund Site, EPA took soil samples from the banks of Five Mile Creek on ABC's plant site as well as from borings inside the plant. Those results, on ABC's industrial property, were significantly below the conservative risk management levels ("RMLs") of 39 mg/kg As and 400 mg/kg Pb that EPA established for *residential* areas in the 35<sup>th</sup> Avenue Superfund Site. Soil samples taken by EPA during an inspection of the ABC Plant that were analyzed using the Toxicity Characteristic Leaching Procedure ("TCLP") showed levels of arsenic and lead below the reporting level for soils. If these results from soils at the ABC Plant were below the residential RMLs, certainly there could be no release related to the ABC Plant in the Petitioned Area, since the deposition rates from a source of emissions always decrease as one moves away from that source.

Moreover, as described in Section IV below, several risk assessments of North Birmingham air quality have concluded that no unacceptable risks or health impacts are present. For example, in the Tarrant Elementary School Study, the most representative study of the Petitioned Area, EPA concluded that no further monitoring was necessary because the agency found levels of contaminants of concern for the 35th Avenue Superfund Site well below screening levels and in many cases, not detectable.

Accordingly, there is no evidence of any release of a hazardous substance or contamination that would require remediation—both sampling and risk assessments confirm this—and a PA of the

Petitioned Area is not justified. Moreover, if a PA were conducted, all of the available evidence that would be used in a PA indicates that no further action under CERCLA is warranted. Therefore, EPA should deny GASP's Petition.

## **I. THE ABC PLANT**

The ABC Plant is a coke and coke by-products manufacturing plant located in Tarrant, Alabama. The ABC Plant produces coke by heating coal in an oxygen-depleted oven environment. The coke is then shipped to customers. The by-products are recovered through cooling, settling and reaction processes to produce coke oven gas, tar, light oil and ammonium sulfate. The coke oven gas is consumed on site for energy recovery and the other by-products are sold.<sup>1</sup>

The ABC Plant was built pursuant to a 1919 contract with the United States to provide a source of munitions and other products critical to the war effort and was owned and operated by the United States until the end of 1937. The ABC Plant was again taken over and controlled by the United States War Production Board and its predecessor defense-related agencies during World War II.

The ABC Plant is a foundry coke plant rather than a furnace plant. It was built originally to recover the by-products and to produce foundry coke for off-site use. It is therefore significantly different from furnace coke plants, in that it is not associated with metallurgical processes and recovers materials rather than generating wastes. It produces no waste and no air emissions associated with those metallurgical processes. ABC has continued to upgrade the plant to improve both its economic and environmental performance and currently employs 385 people.

ABC has implemented a proactive approach to reducing and eliminating pollution, usually in advance of federal and state requirements, and is a leader in the coke manufacturing industry. This proactive approach extends to all media—air, water and waste. ABC's measures for preventing and

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<sup>1</sup> The facts recited here are consistent with ABC's responses to EPA's requests for information pursuant to section 104(e) of CERCLA with respect to what EPA has identified as the 35<sup>th</sup> Avenue Superfund Site for purposes of CERCLA. Those responses and the attached documents are too voluminous to attach to this response, but are available in EPA's files.

controlling the emissions of hazardous air pollutants resulted in the ABC Plant being one of the model facilities that EPA considered in the development of the most recent update to the applicable National Emissions Standards for Hazardous Air Pollutants (“NESHAPs”) governing coke plants under section 112 of the Clean Air Act. The Jefferson County Department of Health (“JCDH”) found that the ABC Plant is currently in compliance with all applicable NESHAPs and other applicable air pollution rules and regulations. *See* JCDH, Fact Sheet for Draft Renewal Title V Operating Permit for ABC Coke (2014) (Exhibit 1). This determination necessarily includes a determination that the ABC Plant does not cause or interfere with attainment of National Ambient Air Quality Standards (“NAAQS”), which are set and regularly updated by EPA at a level to protect the most sensitive individual with an ample margin of safety. 42 U.S.C. § 7409. Indeed, Jefferson County is now in attainment with all NAAQS, including the most recently promulgated 2012 standard for fine particulate matter. *See* <http://www.epa.gov/pmdesignations/2012standards/rec/r4alrec1.pdf>; [http://www.epa.gov/pmdesignations/2012standards/eparesp/04\\_AL\\_120resp.pdf](http://www.epa.gov/pmdesignations/2012standards/eparesp/04_AL_120resp.pdf).

Consistent with these conclusions, an EPA health-based risk assessment of the neighboring school in Tarrant, Alabama, determined that the air quality in the area does not pose a health risk to the sensitive populations around that school. *See*, U.S. EPA, Tarrant Elementary School, Tarrant City, AL, at <http://www.epa.gov/schoolair/TarrantEleResults.html>; U.S. EPA, Tarrant Elementary School, Results and Analysis of EPA’s Monitoring, at <http://www.epa.gov/schoolair/TarrantEle.html>; U.S. EPA, SAT Initiative: Tarrant Elementary School (Birmingham, AL) (June 2011), available at <http://www.epa.gov/schoolair/pdfs/TarrantTechReport.pdf> (hereinafter, collectively referred to as the “Tarrant Elementary School Study”).<sup>2</sup>

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<sup>2</sup> All studies of nearby areas, including the 35<sup>th</sup> Avenue Superfund Site, have also shown that air emissions are not impacting residents in North Birmingham, including the Petitioned Area. EPA’s North Birmingham Air Toxics Risk Assessment (March 2013), available at <http://www.epa.gov/region4/air/airtoxic/North-Birmingham-Air-Toxics-Risk-Assessment-final-03282013.pdf> (hereinafter, “2013 North Birmingham Air Toxics Risk Assessment”), concluded that long-term cancer risks

ABC also maintains state of the art wastewater and stormwater control systems. All process wastes are collected and treated in a biological treatment system and discharged to Five Mile Creek pursuant to and in compliance with an NPDES Permit. Stormwater is also collected in a series of ponds prior to discharge to Five Mile Creek pursuant to and in compliance with an NPDES permit.

EPA sampling of soils on the ABC Plant site have indicated that no contaminants of concern are present on the industrial areas within the plant site at levels that would be of concern in a residential area. Specifically, in connection with its investigation of Five Mile Creek, EPA took samples of soils on the top of the banks of Five Mile Creek within ABC's plant property, as well as samples from sediments in the creek bed. EPA, in connection with its 2012 inspection of the ABC Plant, also conducted borings within the ABC Plant and analyzed soil samples from those borings. None of the analytic results from ABC's analysis of split samples from those sampling events exceeded EPA's conservative RMLs for residential areas in the 35<sup>th</sup> Avenue Superfund Site of 39 mg/kg As and 400 mg/kg Pb.

Thus, there is no evidence of a release associated with the ABC Plant that might require a response under CERCLA and no reason to believe that such a release associated with the ABC Plant has occurred.

## **II. THE 35TH AVENUE SUPERFUND SITE**

The Petition is founded upon the false assumption that because the residential properties bordering the Walter/U.S Pipe plants have shown levels of arsenic, lead, and benzo(a)pyrene above the

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were within EPA's range of acceptability and that it is unlikely that adverse non-cancer effects from long-term exposure would occur. The ATSDR's Evaluation of Air Exposures in Communities Adjacent to the 35<sup>th</sup> Avenue Site, Birmingham, Alabama (EPA FACILITY ID: ALN000410750) (June 26, 2014), available at [http://www.atsdr.cdc.gov/HAC/pha/NorthBirminghamAirSite/35th%20Avenue%20Site\\_PHA\\_PC\\_06-26-2014\\_508.pdf](http://www.atsdr.cdc.gov/HAC/pha/NorthBirminghamAirSite/35th%20Avenue%20Site_PHA_PC_06-26-2014_508.pdf) (hereinafter, "2014 ATSDR Evaluation"), concluded past short-term exposures and past and current long-term exposures to PM would not result in harmful effects to the general public and that cancer risks were within EPA's target risk range. The JCDH's Summary of the Comparison of Death Rates and Birth Outcomes of African-Americans Living in Collegeville, Fairmont and Harriman Park to African Americans Living in the Rest of Jefferson County, Alabama (Aug. 6, 2014) (hereinafter, "2014 JCDH Death Rates Comparison Report") (Exhibit 2), showed that there was no excess incidence of cancer due to pollution in North Birmingham neighborhoods.

EPA RMLs and because the Walter/U.S. Pipe plant site includes, among other uses, a coke plant, what is found at the 35th Avenue Superfund Site will also be found in Tarrant. Even a cursory consideration of the differences between the ABC Plant and the 35th Avenue Superfund Site will show that this reasoning is wholly based upon a false analogy.

The Walter Coke and U.S. Pipe plants were originally the same facility and were part of a larger integrated coke and metal working facility. The Walter/U.S. Pipe plants were built and owned by Sloss Industries and were only split up as a result of a number of corporate reorganizations.

Although the Walter Coke plant was built as part of the World War I operations, there were metal-working and industrial operations at and around the site in North Birmingham prior to World War I. The Walter Coke plant was built as an addition to Sloss's considerable iron and steel operations already in existence in North Birmingham. The original Sloss Industries was founded with the construction of two blast furnaces in North Birmingham in 1881. Sloss added two additional blast furnaces in the North Birmingham area before the construction of the coke plant. An additional blast furnace was added in the 1950s, and Sloss merged with U.S. Pipe in 1952. See Walter Energy website at <http://walterenergy.com/operationscenter/coke/coke-history.html>. The Walter/U.S. Pipe plant also included a pig iron foundry. The coke plant served the Sloss furnaces, foundry, and pig iron plant and the complex was, apparently, operated as an integrated operation. Consistent with its different purpose, the Walter Coke plant is a furnace coke plant. The Walter/U.S. Pipe plant also contained chemical processing facilities. *Id.*

The Walter/U.S. Pipe plant also engaged in very different waste handling processes. Unlike the ABC Plant, the Walter plant site contains many hazardous waste and solid waste disposal areas governed by RCRA Subtitle C and requiring corrective action. See, RCRA Section 3008(h) Administrative Order on Consent (AOC), *In re Walter Coke, Inc.*, Dkt. No. RCRA-04-2012-4255 (Sept.

17, 2012) (“RCRA Correction Action AOC”). Many of these relate to the metal working operations. The site includes 45 solid waste management units and six areas of concern, many of which relate to metal working rather than coke manufacturing. These include unsecured blast furnace emission control sludge piles (SWMU 24), mineral wool waste piles (SWMU 35), a blast furnace emission control sludge waste pile (SWMU 39), pig machine slurry pits (SWMU 43), a blast furnace ash boiler pit (SWMU 44) and slag drying beds (SWMU 45), all features associated with mineral working rather than coke plant operations. Moreover, the many waste piles and landfills apparently are (or were in the past) unsecured so that waste could potentially blow from the Walter property onto neighboring residential properties and schools. Flooding of the Walter Coke plant site has also created the potential for waste to be carried from the site to surrounding residential properties.

Unlike ABC, the industrial operations and waste piles owned and operated by Walter, U.S. Pipe and their predecessor, Sloss, loom over residential properties that directly abut the plant sites. In fact, at least some of the residential areas that EPA has separated from the Walter and U.S. Pipe plant sites<sup>3</sup> were former Sloss company housing.<sup>4</sup>

The historic operations at the Walter/U.S. Pipe plants have also resulted in contamination not present at the ABC Plant. The RCRA Corrective Action AOC for the Walter plant reveals significant groundwater contamination and significant deposits of contaminants in the Walter wastewater treatment system and a ditch running through the Walter property that can also flood into residential properties.

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<sup>3</sup> ABC believes that the Walter/U.S. Pipe plants and the 35<sup>th</sup> Avenue Superfund Site should be considered to be a single facility addressed under RCRA corrective action rather than CERCLA. The Walter Coke and U.S. Pipe sites should properly be considered a single facility, given the history, proximity and common ownership at the time RCRA corrective action was triggered. Walter was originally addressing “off-site” problems as an extension of the RCRA corrective action until it refused to continue work off-site. Rather than moving that action to CERCLA, EPA should have pursued its RCRA enforcement authority.

<sup>4</sup> That housing, known as the “Sloss Quarters,” was located on North 27 Street between 25<sup>th</sup> and 26<sup>th</sup> Avenues along the trolley route in North Birmingham. It was demolished in 1964 and replaced by the Collegeville housing project. White, Marjorie Longenecker, *Birmingham District: An Industrial History and Guide* (1981) at 147, 155. Given this history, it would have been more appropriate to require that Walter, as Sloss’s corporate successor, continue to address these areas under RCRA corrective action authority rather than moving the response to the CERCLA program.

Significant deposits of contaminants have been found in the Walter wastewater treatment system and the portions Five Mile Creek directly affected by that system.

### **III. LEGAL STANDARD GOVERNING CERCLA SECTION 105 PETITIONS AND PRELIMINARY ASSESSMENTS.**

Application of the law and legal guidance regarding PAs and the establishment of priorities for taking action pursuant to CERCLA all militate strongly towards denying the Petition. Although the Petition purportedly seeks only to have EPA conduct a PA, the ultimate objective appears to be having EPA take action under CERCLA to require a response action in the Petitioned Area. Taking action to further characterize an area where there is significant information showing that there is no release requiring a response would be fundamentally inconsistent with the Congressional objective that the limited funds in the Superfund be directed to the sites posing the greatest “risk or danger to public health or welfare or the environment.” 42 U.S.C. § 9605(a)(8). *See also, id.*, § 9604(a) (requiring release or “substantial threat” of release that “may present an imminent and substantial danger”); *Mead Corp. v. Browner*, 100 F.3d 152, 156 (D.C. Cir. 1996).

The Petition has been submitted pursuant to section 105(d) of CERCLA and 40 C.F.R. § 300.420(b)(5). “The lead federal agency shall complete a remedial or removal PA within one year of the date of receipt of a complete petition pursuant to paragraph (b)(5) of this section, if one has not been performed previously, unless the lead federal agency determines that a PA is not appropriate.” *Id.* § 300.420(b)(5)(iii). When determining whether performance of a PA is appropriate, EPA’s regulations state that the lead federal agency shall take into consideration the following:

- (A) Whether there is information indicating that a release has occurred or there is a threat of a release of a hazardous substance, pollutant, or contaminant; and
- (B) Whether the release is eligible for response under CERCLA.

40 C.F.R. § 300.400(b)(5)(iv). A review of these considerations in light of EPA guidance, available information and case law all lead to the conclusion that a PA for the Petitioned Area is not appropriate.

The Petition does not allege any specific release of a hazardous substance by any means or in any sense that was intended by Congress to trigger a response action under Superfund, but instead presumes that the presence of any concentration of a listed chemical in the regulated and permitted air emissions of any regulated party is enough to also presume contamination and to justify extraordinary regulatory action by the EPA. The Petition is entirely speculative as to contamination. There is simply no evidence of a release or threat of a release and EPA's soil sampling data from the ABC Plant confirms that no release has occurred that would be eligible for response under CERCLA.

A PA under CERCLA is a "review of existing information and an off-site reconnaissance, if appropriate, to determine if a release may require additional investigation or action. A PA may include an on-site reconnaissance, if appropriate." *Id.* § 300.5. A PA must be conducted for each site entered into the Comprehensive Environmental Response, Compensation and Liability Information System ("CERCLIS"), EPA's computerized inventory of releases addressed or needing to be addressed by the Superfund program. Thus, before performing a PA, EPA must first determine whether a site should be entered into CERCLIS. EPA issued pre-CERCLIS screening guidance in 1999 to assist regional offices in conducting the initial low-cost look at potential sites to ensure that uncontaminated sites or sites ineligible for CERCLA are not unnecessarily entered into CERCLIS. *See* EPA Office of Emergency and Remedial Response, *Improving Site Assessment: Pre-CERLIS Screening Assessments*, EPA-540-F-98-039 (Oct. 1999), <http://www.epa.gov/superfund/sites/npl/hrsres/fact/sascreen.pdf> (hereinafter, "Pre-CERCLIS Screening Guidance"). After a site has been entered into CERCLIS, the PA is the first step EPA takes to determine whether a site warrants Superfund response.

EPA's Pre-CERCLIS Screening Guidance sets forth specific criteria for determining whether a site should be entered into CERCLIS, and accordingly, whether performance of a PA is appropriate. Importantly, pre-CERCLIS screening applies to citizen-petitioned sites as well:

Citizen-petitioned sites are eligible for pre-CERCLIS screening assessments and must meet the same criteria. According to Section 105(d) of CERCLA, EPA must perform a PA or provide an explanation for why the PA was not appropriate within 12 months of receiving the petition. The *Pre-CERCLIS Screening Assessment Checklist/Decision Form* (see Attachment A) or equivalent documentation may be used to support the decision to enter the site into CERCLIS and perform a PA or to explain to the petitioner why a PA is not appropriate.

*Id.* at 3. EPA's Pre-CERCLIS Screening Guidance provides, in pertinent part, that, a site should *not* be entered into CERCLIS if:

- There is sufficient documentation that clearly demonstrates that there is no potential for a release that could cause adverse environmental or human health impacts (e.g., a completed EPA-approved risk assessment showing no risk).
- Site data are insufficient to determine CERCLIS entry (e.g., based on potentially unreliable sources or with no information to support the presence of hazardous substances or CERCLA-eligible pollutants and contaminants).
- The hazardous substance release at the site is deferred by policy considerations (e.g., RCRA Corrective Action).

*Id.* As is evident from the discussion of the ABC Plant and the 35<sup>th</sup> Avenue Superfund Site, each of these criteria militate strongly against including the Petitioned Area on the CERCLIS and, accordingly, compel the conclusion that the Petition should be denied. Specifically, as referenced earlier, the Tarrant Elementary School Study and multiple other nearby EPA-approved risk assessments show no unacceptable risk to human health for the area. Moreover, Jefferson County is in attainment with all NAAQS and there is no information supporting the Petition's presumption of a release of hazardous substances to the Petitioned Area. EPA should also deny the petition because GASP relies solely on an unproven "air emissions" pathway of contamination that is not supported by the facts or the law.

Although a PA for the Petitioned Area is inappropriate, if EPA proceeds and conducts a PA, there is sufficient evidence available to support a determination that there is no need for a removal action with respect to the Petitioned Area. The principles guiding the performance of a PA are to, *inter alia*, eliminate areas that do not pose threats to public health or the environment and determine whether

there is a need for a removal action. *See* 40 C.F.R. § 300.420(b)(1)(i)-(ii). “A remedial PA shall consist of a review of existing information about a release such as information on the pathways of exposure, exposure targets, and source and nature of release.” *Id.* § 300.420(b)(2). It “shall” include off-site reconnaissance as appropriate and “may” include onsite reconnaissance as appropriate. *Id.* Although “onsite reconnaissance” may be appropriate in some cases, here, where EPA, the Alabama Department of Environmental Management (“ADEM”), and JCDH have already visited the plant on many occasions and taken and analyzed samples of all relevant media, no further on-site reconnaissance is warranted.

The scope of a PA is limited to existing information. According to EPA guidance, PA investigators collect “readily available information and conduct a site and environs reconnaissance.” *See* EPA, *Guidance for Performing Preliminary Assessments under CERCLA*, EPA/540/G-91/013, at 2 (Sept. 1991), <http://www.epa.gov/superfund/sites/npl/hrsres/pa/paguidance.pdf> (hereinafter, “PA Guidance”). EPA uses a truncated approach to scoring sites during the PA, in recognition of the fact that the scope is limited. *Id.* at 5. Since the focus of the PA is the existing record, file searches are a large component of EPA’s investigation. “Documents of particular interest during the file search include site sketches, inspection reports, aerial photographs, permit applications, hazardous waste handling notification forms . . . waste hauling manifests, analytical sampling results, records of citizen complaints, records of violations, and court orders.” *Id.* at 21. EPA will not only review its own regional office files, but will also review state files. *Id.* at 22.

With respect to air pathways of exposure, EPA’s PA Guidance directs the agency to focus on the likelihood of hazardous substances migrating from the site to the air, and to evaluate targets within a 4-mile radius. *Id.* at 126. Importantly, the list of suspected release considerations for the air pathway suggests that a PA is not intended for all facilities that hold air permits. Specifically, the questions ask whether odors are currently reported, whether a release has been directly observed (with examples given

such as windblown particulates from waste piles and dust clouds from high wind events, *not* releases from an emissions stack), reports of adverse health effects potentially resulting from migration of hazardous substances through the air (such as complaints of headaches, nausea, dizziness), and whether analytical or circumstantial evidence suggests a release to the air.<sup>5</sup> *Id.* at 127-128.

The PA culminates with the development of a report, which will make a recommendation of whether further action is warranted. 40 C.F.R. § 300.420(b)(4)(iii). EPA may use the EPA Preliminary Assessment form, or its equivalent, to prepare the PA report, which shall include: “(i) a description of the release; (ii) a description of the probable nature of the release; and (iii) a recommendation on whether further action is warranted, which lead agency should conduct further action, and whether an SI [site inspection] or removal action or both should be undertaken.” *Id.* EPA also encourages the use of Abbreviated Preliminary Assessments (“APA”) instead of full PAs to save the agency time and resources in situations where a full PA may not be necessary. EPA guidance regarding APAs provides that, in the case of a citizen petition pursuant to CERCLA section 105(d) (where the agency determines that a PA is necessary), a brief APA report with a completed *Abbreviated Preliminary Assessment Checklist* or equivalent documentation, meets the CERCLA and National Contingency Plan requirements for a PA. *See* EPA Office of Emergency and Remedial Response Site Assessment Team, *Improving Site Assessment: Abbreviated Preliminary Assessments*, EPA-540-F-98-037 (Oct. 1999), <http://www.epa.gov/superfund/sites/npl/hrsres/fact/apa.pdf>.

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<sup>5</sup> In response to comments on ABC Coke’s Draft Title V permit in June 2014, JCDH addressed many of these issues. *See* JCDH, “Questions & Comments from Public Comment Period and Public Hearing for ABC Coke” (2014) (Exhibit 3). Specifically, in response to comments regarding air pollution and soot at Presbyterian Manor housing, JCDH stated that the results of an indoor air assessment of the housing facility inspection did not reflect the conditions outlined in the comments. JCDH noted clean conditions and no evidence of soot deposition inside the apartments or in the air handling systems for the building. In response to comments regarding the odor and fugitive dust provisions of the permit, JCDH said the permit terms had been approved by ADEM and were appropriate and federally enforceable. Moreover, JCDH said that, based on the latest inspection completed at the facility, ABC Coke is currently in compliance with the odor and fugitive dust provisions of its permit. With respect to comments regarding health, JCDH noted the findings of the Tarrant Elementary School Study and stated that it uses federal standards developed by EPA, including NESHAPs to reduce, control or eliminate air toxics and protect public health.

The decision of the Court of Appeals for the District of Columbia in *Mead Corp. v. Browner*, 100 F.3d 152 (D.C. Cir. 1996), presents facts remarkably similar to those here and strongly supports a conclusion that the Petitioned Area would not be eligible for response under CERCLA. The Court reversed EPA's decision adding a former coke plant site to the National Priorities List ("NPL"), where, as here, there was no evidence of a release presenting a threat to health or the environment at the coke plant site, and the listing was based on the risk from two other sites based on EPA's since repealed "Aggregation Policy."

The Court first noted the strong policy reasons for not lumping low risk sites with high risk sites under CERCLA:

[S]ites placed on the NPL become eligible for funds from the Superfund for remedial action on the site. 40 C.F.R. § 300.425(b)(1). While the availability of these funds might be seen as only benefitting PRPs, once EPA has funds to clean up a site, it gains bargaining leverage over parties such as Mead. EPA could, for example, propose an expensive remedial operation at the Coke Plant Site (for which Mead's status as a former owner would provide a plausible basis for a claim that it was a PRP, see CERCLA § 107(a)(2), 42 U.S.C. § 9607(a)(2) (reaching owner or operator of a facility at a time of disposal of hazardous substances)), and use that threat to pressure Mead to contribute towards cleaning up the creek.

*Id.* at 155. The Court's reasoning is directly on point in the current situation. The Petition is speculative and presumptive rather than specific as to some release or known contamination because it is actually a very thinly-veiled attack on ABC and its plant by both inviting EPA to create a new Superfund site near the plant and implying a connection of some sort between ABC and the 35th Avenue Superfund Site. The quoted decision of the U.S. Court of Appeals for the D.C. Circuit makes clear that EPA should reject such attempts and invitations to abuse its authority and responsibility under the law. CERCLA is not the appropriate mechanism to pressure owners of no/low risk sites, such as ABC, who already provide employment for those communities and pay taxes, to fund the agenda of private interest groups. The Court in *Mead* reversed EPA's decision to list the remote coke site on the NPL concluding that

lumping low risk sites with high risk sites, as Petitioners seek to do here, was both unreasonable and inconsistent with Congressional intent. As the Court noted:

[W]hen Congress detected that EPA's "1982 HRS resulted in the listing of a disproportionate number of high volume, low toxicity hazardous waste sites," 938 F.2d at 1303, it stepped in with the Superfund Amendments and Reauthorization Act of 1986 and required EPA to amend the HRS to make sure that it "accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review." CERCLA § 105(c)(1), 42 U.S.C. § 9605(c)(1). The idea that Congress implicitly allowed EPA broad discretion to lump low-risk sites together with high-risk sites, and thereby to transform the one into the other, is anything but reasonable."

*Id.* at 156. EPA should reject Petitioners' attempt to induce the agency to follow an equally legally perilous path and deny the Petition.

**IV. A PRELIMINARY ASSESSMENT IS NOT APPROPRIATE FOR THE PETITIONED AREA AND UNDER THE STANDARDS APPLICABLE TO PRELIMINARY ASSESSEMENTS THE AVAILABLE DATA INDICATES THAT NO CERCLA RESPONSE IS WARRANTED.**

The foregoing standards compel the conclusion that EPA should deny the Petition because (1) there is no credible evidence that a release has occurred and (2) even if an alleged release has occurred it would not warrant a CERCLA response. GASP provides no data or information to support its allegations that a release has occurred. Instead, GASP assumes that because there is contamination at the 35<sup>th</sup> Avenue Superfund Site, there must be contamination around ABC Plant (more than a mile away). However, this assumption is unfounded because of the profound differences between the ABC Plant and the 35<sup>th</sup> Avenue Superfund Site and actual data from the ABC Plant already collected by EPA directly contradict this assumption. Even the very limited reasoning cited by GASP fails to support its case. The Petition relies upon a wind rose to support the proposition that air emissions from the ABC Plant have affected populations in the Petitioned Area. However, the predominant wind patterns in the wind rose show that any emissions from the ABC Plant would not result in deposition in the Petitioned Area and ABC's excellent environmental compliance record assures that there are no significant emissions that could cause such an impact. This lack of an impact is confirmed by health assessments

showing that sensitive populations in Tarrant and Inglenook have not been adversely affected by any air emissions.

First, the Petition's assumption that contaminants similar to those found at the 35<sup>th</sup> Avenue Superfund Site are also likely present in the Petitioned Area as a result of ABC Coke's emissions is unfounded. The profound differences between the ABC Plant and the 35<sup>th</sup> Avenue Superfund Site compel a different conclusion. As described above, the Walter/U.S. Pipe plant operations included blast furnaces, foundries, other metal working operations, waste piles, and waste disposal entirely absent from the ABC Plant site. Moreover, the 35<sup>th</sup> Avenue Superfund Site is surrounded by dozens of other industrial facilities, including pipe manufacturing facilities, asphalt batch plants, quarries, and many more facilities.<sup>6</sup> In addition, Walter Coke, a furnace coke plant, uses feedstock with 30% more volatile hazardous components than the feedstock used by ABC's foundry plant.

In addition, where there are many on-site solid waste disposal areas within the more limited Walter plant site, including huge refuse piles along its fence line, there are no such features on the ABC Plant site. ABC's 2012 CERCLA § 104(e) response states that, "for the first thirty years of the Facility's operations, coal tar sludge was stored on the property. This material was entirely removed about 1950 and all accumulated material was charged into the furnace and recycled. Currently, all tar is recycled into the process and ADEM has determined that it is excluded from regulation..." ABC reuses all materials from the coke plant process that might become waste in its process and has no refuse piles onsite. Moreover, while there is documented groundwater contamination onsite at the Walter plant that

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<sup>6</sup> Walter Coke identified seventy-six other facilities as "in the area," and in response, EPA sent notice letters to some of these facilities, including ABC, for potential Superfund site releases for the 35<sup>th</sup> Avenue Superfund Site. In response, ABC Coke has provided EPA with evidence as to why it is not a liable party and is working with EPA with respect to clarifying the matter. ABC is the only recipient of the potentially responsible party ("PRP") notice letters not located in North Birmingham. In any event, a PRP notice letter does not establish liability under the Superfund statute or any other provision of law. See *In re Combustion Equip. Associates, Inc.*, 838 F.2d 35, 38 (2d Cir. 1988); see also *Manville Corp. v. United States*, 139 B.R. 97, 107 (S.D.N.Y. 1992) (EPA identification of a party who "may be liable along with a large number of other potentially responsible parties" did not constitute determination of liability).

extends off-site, there is no documentation of groundwater contamination at ABC Plant which has been extensively tested by EPA. Similarly, very significant contamination was found in the Walter wastewater treatment system and associated drainage features, which have potentially flooded onto neighboring properties. No such contamination and no such potential for flooding exist at the ABC Plant. Most significantly, as noted above, on-site soil samples taken by EPA from the industrial soils actually on the ABC Plant site showed that levels of all contaminants of concern were less than EPA's RMLs for residential areas.

The ABC Plant and the Petitioned Area are more than a mile from the 35<sup>th</sup> Avenue Superfund Site and the industrial/residential makeup of the area is different. Unlike the current residences in the 35<sup>th</sup> Avenue Superfund Site, where residential areas are directly adjacent to both industrial and disposal areas, the ABC Plant is separated from any residential areas by both vacant land and a busy highway. While many of the residential areas at the 35<sup>th</sup> Avenue Superfund Site were once company housing owned by Sloss, this is not true of the areas around the ABC Plant.

Moreover, the results of EPA testing from within the 35<sup>th</sup> Avenue Superfund Site indicate that air emissions alone are not the source of soil contamination and that coke plant air emissions are likely *not* the source. Specifically, Walter Coke has made submissions to EPA showing that the contaminants found in the residential properties surrounding its plant have an entirely different profile from coke plant emissions. This may be consistent with the extensive blast furnace, foundry and other metal-working operations at the Walter/U.S. Pipe complex and the different emissions profiles of blast furnaces and other metal working operations. However, the sporadic concentrations of the contaminants of concern, shown in Figure 1, indicate that it is more likely that fill materials<sup>7</sup> or activities unrelated to industry and

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<sup>7</sup> Notably, there are no records and there is no evidence indicating that ABC has ever provided materials offsite for use as fill. Unlike the other potentially responsible parties ("PRPs") for the 35<sup>th</sup> Avenue Superfund Site, EPA's only theory of liability for ABC at the 35<sup>th</sup> Avenue Superfund Site is air deposition. Therefore, in the event EPA does investigate the Petitioned

wholly unrelated to coke plant emissions are the source. The literature reports that levels of lead and arsenic significantly exceeding EPA's RMLs can be found in many residential areas from a wide variety of residential use patterns, such as lead paint applied to houses, lead emissions from use of leaded gasoline, use of arsenic and lead in commonly applied pesticides, and arsenic in treated wood products formerly commonly used in residential construction. In addition, PAHs are found in asphalt used in residential properties. Indeed, levels of lead and other heavy metals along many highways significantly exceed EPA RMLs and Congress specifically defined "release" to exclude emissions from mobile sources to prevent limited Superfund dollars from being expended to cleanup thousands of miles of road right-of-way.<sup>8</sup> Moreover, neither lead nor arsenic are found in coke oven emissions at appreciable levels, and emissions from mobile sources are the most common source of benzo(a)pyrene. The cleanup efforts at the 35<sup>th</sup> Avenue Superfund Site tend to confirm that coke plant emissions are *not* the source of the contamination found there. Soil removal is occurring on only portions of properties (*e.g.*, soil removal may occur in a portion of a front yard, but no removal in the back yard), suggesting that the contamination arises for disparate patterns of disposal of fill materials, residential uses and mobile sources.

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Area and finds sporadic contamination similar to that found at the 35<sup>th</sup> Avenue Superfund Site (indicating fill material as the likely source), ABC Coke is not responsible.

<sup>8</sup> 42 U.S.C. § 9601(22) (definition of "release"). Some EPA representatives have confused the use of the term "release" in CERCLA. The term "release" is not used in section 107 of CERCLA, which defines liability, but appears in section 104, which defines the limits of EPA's response authority. Because mobile sources cannot cause a release, EPA lacks the authority to conduct a response action to address releases from mobile sources under section 104 because liability requires a "release" or "threat of release." This also means that the costs to clean up contamination resulting from mobile source emissions cannot be costs of response which are recoverable from any party under section 107 because a response action must occur to be taken in response to a "release" or "threat of release." Mobile and stationary sources of air pollution are also, however, excluded from liability under section 107 due to the fact that air emissions do not constitute "disposal" as defined in CERCLA and RCRA, and arranger liability requires disposal or arranging for disposal. See 42 U.S.C. 9607 (a)(3) (establishing arranger liability); 42 U.S.C. § 9601(29)(defining disposal under CERCLA); 42 USC 6903 (3) (defining disposal under RCRA); 42 U.S.C. § 9601(29) (RCRA definition of solid waste, which does not include uncontained gases); *Center for Community Action and Environmental Justice v. BNSF Railway Co.*, 2014 WL 4085860 at \*10 (9th Cir. 2014) (Ninth Circuit concluded that emitting diesel particulate matter into the air does not constitute a disposal under RCRA); *Helter v. AK Steel*, 1997 U.S. Dist. LEXIS 9852 (S.D. Ohio 1997).

The Petition is founded on the incorrect assumption that because ABC Coke's annual reports of air emissions include some hazardous air pollutants, EPA should presume that Superfund-level soil contamination will be found in the adjacent neighborhoods and that ABC should be presumed responsible. All air emissions from the ABC Plant, including hazardous air pollutants, are regulated under the CAA operating permit for that facility, which is issued by the JCDH with oversight by EPA and pursuant to EPA standards for emission of hazardous air pollutants. Not only is ABC in compliance with the health based emission limitations in its permit, but its proactive approach to environmental compliance resulted in EPA using the ABC Plant as a model to develop applicable NESHAPs.

Coke by-products facilities such as ABC Coke are heavily regulated under federal and state laws. In addition to other air regulations, ABC is subject to numerous industry-specific federal standards which limit the air emissions from the facility, including:

- 40 C.F.R. Part 60, Subpart Db: Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
- 40 C.F.R. Part 60, Subpart PP: Standard of Performance for Ammonium Sulfate Manufacturing
- 40 C.F.R. Part 61, Subpart L: National Emission Standard for Benzene Emissions from Coke By-Products Recovery Plant
- 40 C.F.R. Part 61, Subpart V: National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
- 40 C.F.R. Part 61, Subparts FF: National Emission Standard for Benzene Waste Operations
- 40 C.F.R. Part 63, Subpart L: National Emission Standard for Coke Oven Batteries
- 40 C.F.R. Part 63, Subpart ZZZZ: National Emission Standard Stationary Reciprocating Internal Combustion Engines (RICE)
- 40 C.F.R. Part 63, Subpart CCCCC: National Emission Standard for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching and Battery Stacks.

These and other applicable substantive rules in ABC's operating permit are the result of years of development and notice and comment rulemaking. The basis for these rules is the CAA, and the aim of these rules is to address health risk and protect human health and the environment so as to enforce the CAA's goal of "protect[ing] and enhanc[ing] the quality of the Nation's air resources so as to promote the *public health and welfare* and the productive capacity of its population." 42 U.S.C. § 7401(b) (emphasis added).

The CAA requires that state regulations control emissions of criteria pollutants, including fine particulate (PM<sub>2.5</sub>), so that those emissions do not cause or contribute to any exceedence of NAAQS or interfere with maintenance of the NAAQS. *Id.* § 7410. The NAAQS are established and regularly updated to use the latest science to prescribe maximum levels of air contaminants sufficient to protect the most sensitive individuals with an adequate margin of safety. *Id.* § 7409. In addition, the CAA required EPA to prepare a list of hazardous air pollutants and promulgate emission standards "at the level which . . . provides ample margin of safety to protect public health from such hazardous air pollutants." 54 Fed. Reg. 38,044 (Sept. 14, 1989). The resulting regulations were the NESHAP standards, which govern the HAP emissions at the ABC Plant, including the constituents of interest in the Petition. In fact, EPA has clearly stated that its suite of coke oven regulations "meets—and in some cases exceeds—the environmental goals of the coke oven provisions in the Clean Air Act." U.S. EPA, Fact Sheet, Coke Oven NESHAP, at 3, <http://www.epa.gov/airtoxics/coke/cokefact.pdf>.

Particularly with respect to coke ovens, EPA very conservatively overestimated risk to provide greater protection of human health:

In this risk assessment, the use of these assumptions is likely to result in our overestimating the maximum individual risk and the magnitude of risk experienced by individual members of the population.

69 Fed. Reg. 48,338, 48,346–347 (Aug. 9, 2004) (proposed rule). Further,

[W]e [EPA] acknowledge a probable overestimate of emission levels in determining that risk and overall incidence is probably less than the maximum estimated levels. For the final rule amendments adopted today, years of monitoring data show that actual emissions have been consistently lower than allowable levels.

70 Fed. Reg. 19,992, 19,998 (Apr. 15, 2005).

ABC goes considerably beyond the minimum federal requirements governing air contaminants, as is evident from the fact that EPA used the ABC Plant as a model to develop the coke plant NESHAPs. ABC has implemented voluntary controls and practices to lower particulate matter (“PM”) emissions and hazardous air pollutant emissions. ABC voluntarily installed an additional fabric filter collector/baghouse and replaced older baghouses with new, more efficient fabric filter collectors to control emissions associated with pushing operations, improving efficiencies by 200%. ABC uses additional gas blanketing in the by-products process to control HAPs. To control fugitive dust, ABC uses a wet dust suppression system, paved roads, and a vacuum truck to remove dust from the roads. See Jefferson County Department of Health, Title V Operating Permit Evaluation for ABC Coke, at 4 (Nov. 7, 2013) (Exhibit 4). Furthermore, in order to be conservative in its emissions reporting, ABC overstates emissions in its reports to JCDH, and reports emissions for more pollutants than it is required to by law (*e.g.*, ethylene). ABC’s residual risk calculation required under section 112 has demonstrated that these measures have eliminated any risks exceeding the congressionally mandated standard.

Even if there were, contrary to this evidence, more significant emissions from the ABC Plant, they would not reach the areas that are the subject of the Petition, much less cause soil contamination there. The Petition includes a wind rose from the Birmingham airport documenting wind patterns from January 1, 1970 through October 2013. Notably, the wind patterns documented in the wind rose do not support Petitioners’ argument that wind currents carried contaminants from the ABC Plant onto their property. The three predominant winds on the wind rose show wind from the north to south, south to north, and northeast to southwest. As shown in Figure 2, the wind patterns cover only a small sliver of

the area allegedly impacted by the ABC Plant's emissions.<sup>9</sup> Moreover, as evident from the map included in the Petition, Figure 3, both petitioners' properties are separated from the ABC Plant by Highway 79 (identified by blue arrows). As noted earlier, mobile sources are one of the most common sources of benzo(a)pyrene, as well as lead, which was not removed from gasoline until 1995, and other heavy metals.

The Petition assumes air deposition is a sound basis for presuming soil contamination and that the area around any permitted facility that emits a hazardous air pollutant regulated under Section 112 of the CAA (NESHAPs) would potentially be subject to a PA. The logic underlying the Petition would suggest that EPA should conduct a PA around every site regulated under section 112 of the CAA if any similar site shows contamination. Extended to its illogical extreme, this would require a PA of properties surrounding every chemical plant, refinery, metal working plant, coal-fired power plant, smelter, steel mill, glass plant, paper plant, other major sources regulated under section 112, and even dry cleaners and other area sources regulated under section 112. Section 112 of the CAA already requires a reduction of hazardous air pollutants to the maximum degree of reductions achievable, and empowers EPA to consider pollutants' health thresholds, where established, in establishing emissions standards. 42 U.S.C. § 7412(d)(2), (d)(4). As a practical matter, resource constrained EPA cannot do a PA at every permitted facility in the country that emits hazardous air pollutants. Needless to say, the

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<sup>9</sup> In general, the two predominant wind patterns identified in the wind rose in GASP's petition are consistent with wind roses from other studies. However, the third most predominant wind direction shown in the wind rose, northeast to southwest, was not a predominant wind in the other wind roses included in prior studies, including the 2009 Birmingham Air Toxics Study (BATS) (measuring wind patterns from July 2005 through June 2006), the 2013 North Birmingham Air Toxics Risk Assessment (measuring wind patterns from June 2011 to August 2012), the 2009 Tarrant Elementary School Study (measuring wind patterns from August to November 2009), and wind roses from the Birmingham airport (measuring wind patterns from 2002 to 2007 and from August to November 2009). These wind roses showed the following three predominant winds:

- 2009 BATS: north to south, south to north, and west to east;
- 2013 North Birmingham Air Toxics Risk Assessment: north to south, southeast to northwest, and northwest to southeast;
- 2009 Tarrant Elementary School Study: southeast to northwest (top two) and east to west;
- Airport (2002-2007): north to south, south to north, and east to west;
- Airport (Aug.-Nov. 2009): east to west, north to south, and southeast to northwest.

logic is inconsistent with the law governing the establishment of response priorities under CERCLA. *Mead Corp. v. Browner*, 100 F.3d 152, 156 (D.C. Cir. 1996).

Acceptance of GASP's air emissions theory could have significant ramifications for the City of Tarrant, the City of Birmingham, and business and industry within Birmingham or any city. Under such a theory, boundaries of a Superfund site would never be clearly defined and would be subject to continued expansion in an area with multiple permitted air emissions facilities, inconsistent with the *Mead* decision. EPA itself has admitted that pursuing Superfund liability on the basis of air emissions alone is a novel approach. Moreover, and as noted earlier, it is clear from EPA's PA Guidance that EPA envisioned air pathways for Superfund liability to encompass deposition from waste piles and dusty site conditions rather than regulated emissions from a stack. See PA Guidance at 127.

Granting the Petition would also be inconsistent with congressionally mandated consideration of actual health based studies, all of which indicate that there is no significant risk from air or other exposures in Tarrant and the areas surrounding the ABC Plant. EPA's Pre-CERCLIS Screening Guidance provides that a site should not be entered into CERCLIS, and therefore no PA is required for a site, if, among other reasons, an EPA-approved risk assessment for the area shows no risk.

#### **1) 2009 Tarrant Elementary School Study**

In 2009, EPA conducted air monitoring at the Tarrant Elementary School as part of its national initiative to monitor air toxics around certain schools. The monitor at Tarrant Elementary School is approximately 400 yards from the ABC Plant.<sup>10</sup> EPA performed air monitoring from August 5, 2009, through November 24, 2009, for key pollutants based on emissions from nearby sources, including lead in total suspended particulates ("TSP"), benzene and volatile organic compounds ("VOCs"), arsenic and

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<sup>10</sup> This monitor not only reflected contributions from ABC Coke, but from all sources in the area, including mobile sources, which provides more accurate data than a specific study related to one facility.

other metals including PM<sub>10</sub>, and benzo(a)pyrene and other PAHs. *See* Tarrant Elementary School Study.

The results demonstrated that measured concentrations of lead were below the NAAQS for lead. Further, as shown in Figure 4, levels of pollutants “associated with coke plants” (according to EPA)<sup>11</sup>, including benzene, arsenic, (PM<sub>10</sub>), and benzo(a)pyrene, were all below the levels of significant concern for long term exposures, and lower than previously suggested by modeling data. EPA noted that these pollutants may also come from other sources such as motor vehicles and gas stations. Based on these results, EPA decided that it was not necessary to extend air toxics monitoring at this school.

The results of the Tarrant Elementary School Study are the most representative assessment data available for evaluating air quality and risks associated with air toxics in the area immediately surrounding the ABC Plant (*i.e.*, Tarrant). The study revealed concentrations of benzo(a)pyrene, arsenic, and other pollutants below the levels of significant concern. Therefore, this study constitutes an EPA-approved risk assessment showing no unacceptable health risk, and accordingly, entry of the Petitioned Area into CERCLIS and performance of a PA for the area is not appropriate.

## **2) North Birmingham Air Toxics Risk Assessment**

In March 2013, EPA issued the “North Birmingham Air Toxics Risk Assessment,” a risk assessment study that evaluated ambient air toxics and the resulting human health risk assessment (chronic and acute) in four North Birmingham communities. *See* EPA’s 2013 North Birmingham Study at 1. The study analyzed data from four monitors in the North Birmingham area, which included the same Shuttlesworth monitor that was used in the 2009 Birmingham Air Toxics study issued by JCDH. *See* JCDH Environmental Health Services, Air and Radiation Protection Division, Birmingham Air

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<sup>11</sup> In the Tarrant Elementary School Study, EPA suggested that many of the emissions it was monitoring were “associated with coke plants.” ABC Coke notes that this description is overbroad as it relates to some pollutants such as arsenic, which is not consistent with coke oven emissions.

Toxics Study, at 7 (Feb. 2009), available at <http://www.epa.gov/region4/air/airtoxic/2005-2006-Birmingham-Air-Toxics-Study-Final-Report.pdf> (hereinafter, “JCDH’s 2008 BAT Study”).

Although the results of EPA’s 2013 North Birmingham Study are more reflective of impacts from industries within the 35<sup>th</sup> Avenue Superfund Site than impacts from the ABC Coke facility, EPA found, among other things, that the long-term cancer risks calculated at each of the four monitoring sites fell within EPA’s range of acceptability. See EPA’s 2013 North Birmingham Study at 1. EPA and JCDH have stated that the acceptable cancer risk range is  $1 \times 10^{-6}$  to  $1 \times 10^{-4}$ . *Id.* (“excess cancer risks that range between  $1 \times 10^{-6}$  to  $1 \times 10^{-4}$  are considered to be acceptable”); See JCDH’s 2009 BAT Study (JCDH adopted EPA’s acceptable risk level range of  $1 \times 10^{-6}$  to  $1 \times 10^{-4}$  for cancer). Additionally, EPA reported that it is unlikely that adverse non-cancer effects will occur as a result of long-term exposures. EPA’s 2013 North Birmingham Study at 41. EPA also noted that its “sampling and laboratory analysis process was subject to rigorous quality assurance/quality control procedures.” *Id.* at 1.

Further, the results of this study with regard to long-term cancer risk and non-cancer health hazards from long term exposures were lower at the Shuttlesworth monitor than a similar study conducted by JCDH in 2009.<sup>12</sup> See JCDH’s 2009 BAT Study. Benzene levels also decreased at this monitor from the levels reported in JCDH’s 2009 BAT Study, as did manganese levels, the highest contributor to non-cancer hazard effects.

### **3) 2014 ATSDR Evaluation**

On August 11, 2014, at the direction of EPA Region IV, ATSDR published a public health assessment. To prepare the report, ATSDR collected relevant health data, environmental data, and community health concerns from EPA, state and local health and environmental agencies, the

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<sup>12</sup> The Shuttlesworth monitor is closer to another industrial coking facility, and is approximately 1.5 miles away from ABC Coke. The data collected by the Shuttlesworth monitor is not consistent with ABC Coke’s emissions, and also includes mobile source emissions and area source emissions, etc. See EPA’s 2013 North Birmingham Study at 8. Moreover, even if the Shuttlesworth monitor reflects some contribution from ABC Coke, the resulting air quality is at acceptable risk levels in any event.

community, and industry to determine if people are being exposed to hazardous substances and, if so, whether that exposure is harmful and should be stopped or reduced. Specifically, ATSDR evaluated air samples collected from the three 35<sup>th</sup> Avenue communities in 2005/2006, 2009, and 2011/2012. In sum, ATSDR concluded that past short-term exposures and past and current long-term exposures to particulate matter ("PM") could have resulted in harmful effects to sensitive individuals (*e.g.*, people with asthma, chronic obstructive pulmonary disease, and cardiovascular disease) but not the general public. ATSDR Evaluation at 9-10. Additionally, ATSDR concluded that "[t]he current estimated cumulative cancer risks from air contaminants in North Birmingham are within EPA's target risk range" and that levels of air contaminants (volatile organic compounds, semi-volatile organic compounds, carbonyls and metals) are not likely to result in harmful noncancerous health effects. *Id.* at 10.

#### **4) 2014 JCDH Death Rates Comparison Report**

On August 6, 2014, JCDH released a report that compared various rates of death and birth outcomes for residents in the North Birmingham communities of Collegeville, Fairmont and Harriman Park to residents of the remainder of Jefferson County for the ten year period of 2000-2009. *See* 2014 JCDH Death Rate Comparison Report (Exhibit 2). In sum, JCDH found no excess cancer due to pollution in the North Birmingham communities. Specifically, the study concluded that the overall death rate for all causes of death combined, deaths from all cancers combined and for the following cancers individually: breast, leukemia, liver and lung were statistically the same between residents of the North Birmingham neighborhoods and the rest of Jefferson County. In addition, the death rates from asthma and COPD (Chronic Obstructive Pulmonary Disease) were statistically the same between residents in Collegeville, Fairmont and Harriman Park compared to the rest of the county. Similarly, the rates of infant mortality, still births and birth defects were statistically the same between the neighborhoods and the county. Experts with the Alabama Cancer Registry also looked at cancer rates

among African-Americans in North Birmingham (zip code 35207) compared to African-Americans in the rest of Alabama during 2002-2011, and found no significant differences among the types of cancers known to be associated with air, water and soil pollution.

As shown by these studies and assessments, air quality in North Birmingham and the Petitioned Area is not adversely affecting public health or the environment. Accordingly, the Petitioned Area is not eligible for entry into CERCLIS and performance of a PA for the Petitioned Area is inappropriate.

## V. CONCLUSION

EPA should deny the Petition because Petitioners have provided no evidence of a release or threat of release that might require a response at the ABC Plant or the Petitioned Area. Furthermore, all available evidence indicates that there has been no release or threat of release that might require a response, and applicable health assessments confirm that there is no risk to health or the environment in the Petitioned Area.

Respectfully submitted,

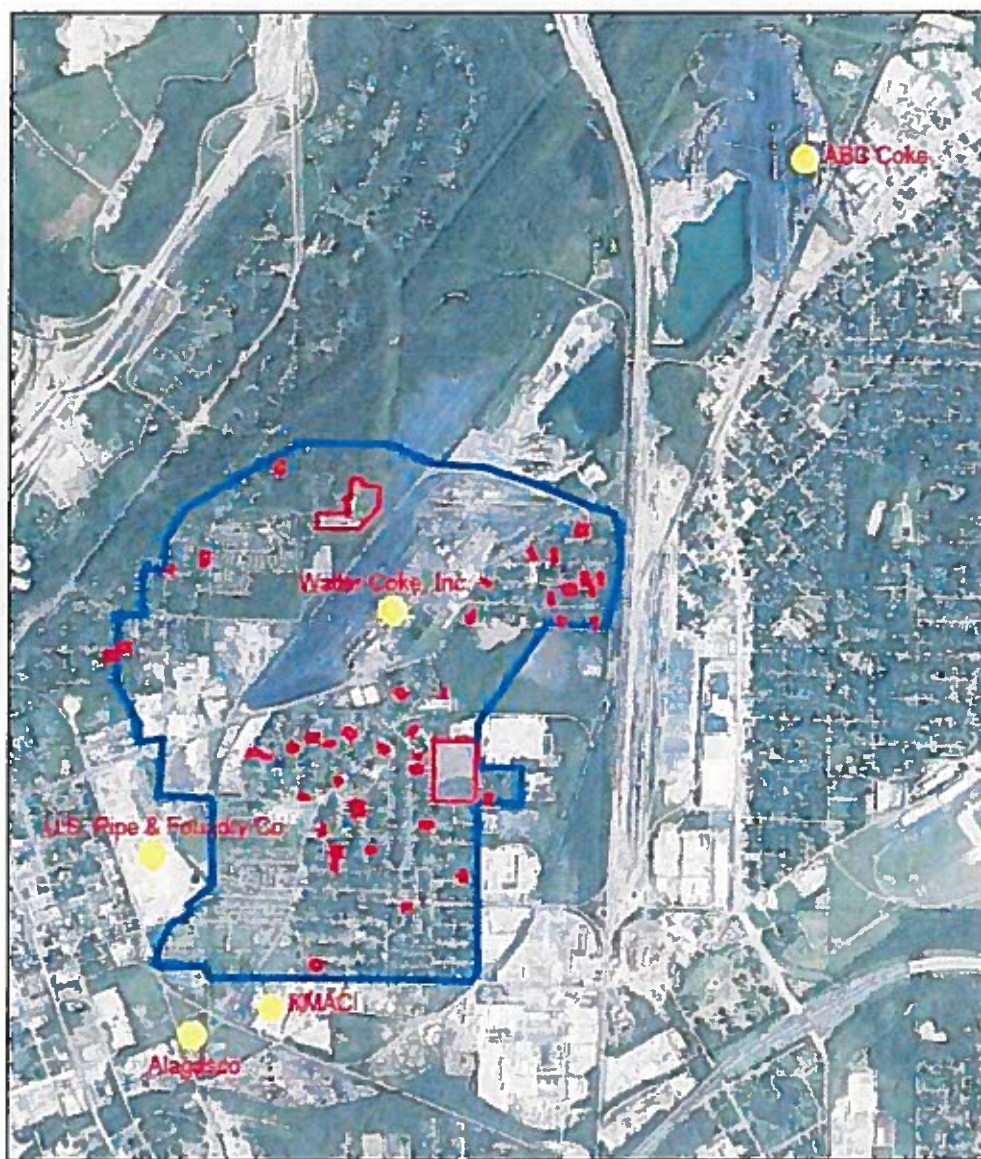
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Attorneys for ABC Coke

**Figure 1**

**Pattern of Exceedences at 35<sup>th</sup> Avenue Superfund Site**



**Legend**

- 10-3 Exceedance Sites
- EPA Study Area (from the 10-3 map)
- PRP Locations

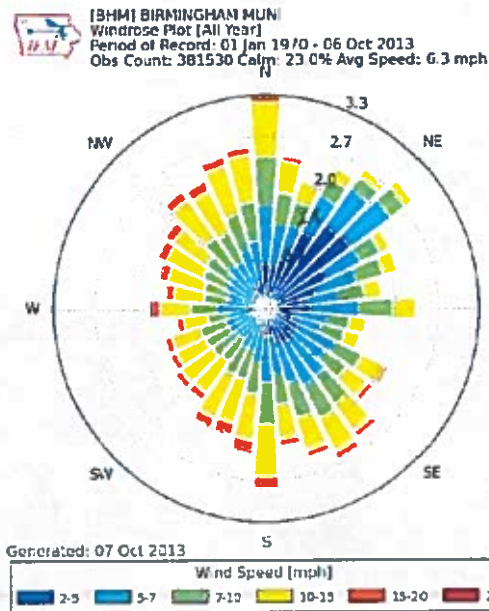
0 0.35 0.7



1.4  
Miles

**Figure 2**

**Wind Rose Compared to Allegedly Affected Area**

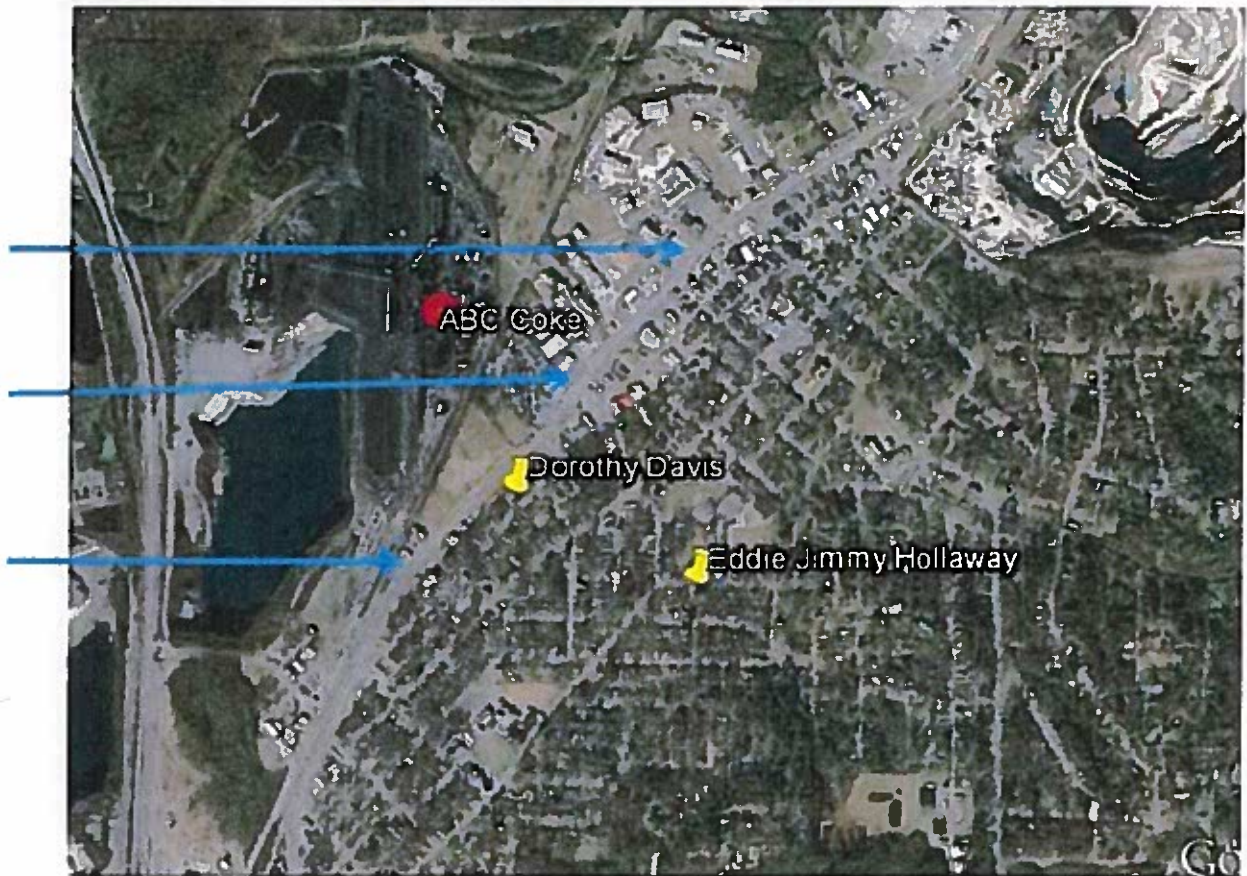


See GASP Petition: Wind Rose for Birmingham Airport from 1970-2013 and outline of residential area allegedly impacted by ABC Coke's emissions.

**Figure 3**

**Map Showing Separation of Petitioners' Properties from ABC Plant**

**Locations of ABC Coke and Petitioners' Residences**



*See GASP Petition: Location of ABC Coke and Petitioners' Residences.*

**Figure 4**

**Results of Tarrant Health Risk Assessment**

Key Pollutants	Arsenic (Nanograms/cubic meter)	Benzene (Micrograms/cubic meter) --	Benzo(a)pyrene (Micrograms/cubic meter)	Lead Non-FRM/FEM (Micrograms/cubic meter)
Sample Screening Level	150	30	6.4	150
07/30/2009	--	--	--	--
08/05/2009	1.74	23.2	--	--
08/11/2009	1.59	2.50	0.000390	8.70
08/17/2009	0.37	0.25	ND	2.03
08/23/2009	--	1.09	ND	1.76
08/29/2009	--	2.13	0.000120	6.66
09/04/2009	2.16	1.04	0.0000400	3.59
09/10/2009	2.13	0.815	0.0000300	2.49
09/16/2009	--	0.361	ND	1.19
09/22/2009	1.08	0.617	0.0000400	1.66
09/28/2009	2.06	13.0	0.00144	19.1
10/04/2009	1.44	1.05	0.0000700	5.91
10/10/2009	1.19	3.61	0.000100	1.79
10/16/2009	0.26	2.53	0.000170	1.65
10/22/2009	0.16	0.32	ND	2.52
10/28/2009	1.30	2.14	0.000210	9.87
11/01/2009	2.11	2.03	0.000140	2.73
11/03/2009	2.67	2.91	0.000160	5.24
11/09/2009	1.34	0.502	0.0000700	3.16
11/12/2009	1.26	2.63	0.0000600	2.36
11/18/2009	0.37	1.16	0.0000600	--
11/24/2009	0.72	0.946	0.0000400	5.60

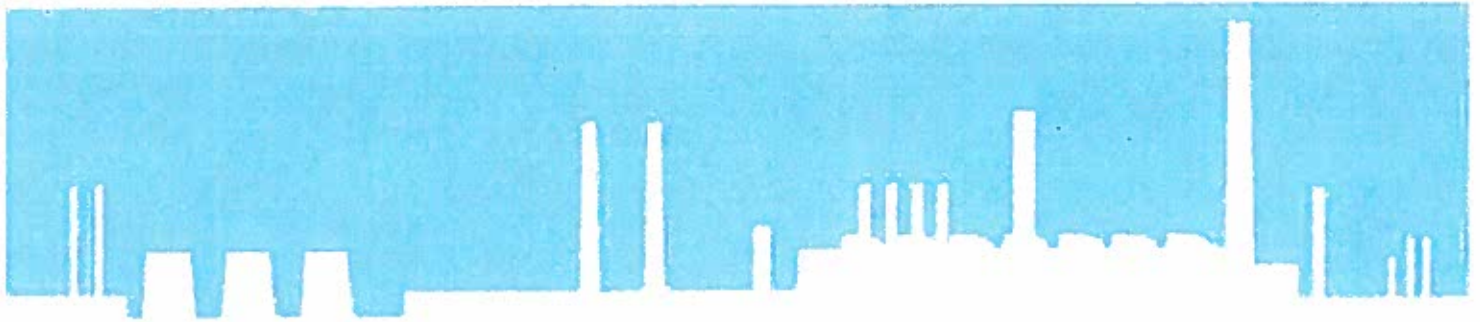
ND = Pollutant Not Detected

-- = Sample not taken or invalid

*See Tarrant Elementary School Study*

## **Exhibit 1**

### **JCDH's Fact Sheet for ABC Title V Permit**



# FACT SHEET

## for DRAFT RENEWAL TITLE V OPERATING PERMIT for ABC Coke

The Department had decided to grant a public information session for the draft renewal Title V Operating Permit for ABC Coke to be held on the Monday, March 31st, at 6:00 pm, at Tarrant Intermediate School (in the lunchroom), located at #1 Wildcat Drive, Tarrant, Alabama 35071.

The Department had also decided to grant a public hearing for the draft renewal Title V Operating Permit for ABC Coke to be held on Monday, April 14th at 1:00 pm at the Jefferson County Department of Health (in Conference Room A), located at 1400 Sixth Avenue South, Birmingham, AL 35233.

Major industries facilities are required to receive Title V Operating Permits. Such Title V Operating Permits are issued by the Jefferson County Department of Health (Department), have terms of five (5) years and include all of the applicable requirements that the industrial sources must comply with. During the initial issuance of such Title V Operating Permits, the public, Alabama Department of Environmental Management (ADEM), the United States Environmental Protection Agency (USEPA), and the respective company are afforded an opportunity to comment on the initial draft/proposed Title V Operating Permit. In addition, the public may request a hearing on the initial draft Title V Operating Permit.

Renewals of Title V Operating Permits are issued prior to the expiration date of the previous Title V Operating Permit OR after the expiration date of the previous Title V Operating Permit where a timely (i.e., within six (6) months of expiration) application has been received by the Department. Similar to the initial issuance of Title V Operating Permits, the public, Alabama Department of Environmental Management (ADEM), the United States Environmental Protection Agency (USEPA), and the respective company are afforded an opportunity to comment on the renewal draft/proposed Title V Operating Permit. Similarly, the public may request a hearing on the renewal draft Title V Operating Permit.

ABC Coke currently has a Title V Operating Permit which was issued on November 17, 2008 and expired on November 17, 2013. However, in accordance with federal Title V Operating Permit requirements 40 CFR 70, the ABC Coke is allowed to operate under the expired Title V Operating Permit since it submitted a timely permit application on May 15, 2013.

The draft renewal Title V Operating Permit for ABC Coke was placed on public notice with the comment period beginning on February 9, 2013 with an initial comment period ending on March 11, 2013. The public, the facility, and ADEM had an opportunity to comment on the draft Title V Operating Permit for ABC Coke. In addition, the public has requested both a public hearing and a public information session on the draft renewal Title V Operating Permit for ABC Coke.

Once all comments from the public are received and reconciled, the draft renewal Title V Operating Permit along with public comments received will be forwarded to the USEPA for a 45-day review/comment period of the proposed draft renewal Title V Operating Permit for ABC Coke.

### Basic Operations and Emissions

ABC Coke produces coke by "baking" coal in an oxygen-less oven, where the volatiles are removed from the coal (captured and refined or destroyed in the by-products plant). The coke is then removed from the oven and piled/ loaded for shipment to end users.

Total combined process/source emissions result in classification of the facility as an actual major source of particulate matter (PM), sulfur oxides (SOx), nitrogen oxide (NOx), carbon monoxide (CO), volatile organic compounds (VOCs), and hazardous air pollutants (HAP). In the year 2013, total facility actual emissions of the above pollutants were estimated to be 481.51 tpy, 1866 tpy, 1041 tpy, 460 tpy, 135 tpy, and 24.33 tpy, respectively.

### Additions since the Previous Permit

ABC Coke has added, voluntarily, controls and practices to lower particulate and HAP emissions. No new emission sources were added to the facility since the last permit renewal; however two existing emergency generators were added to the permit due to new regulations. These generators are an insignificant source of emissions but by rule are included in the permit with conditions. No physical increases in emissions sources were added while controls for PM and HAPs were increased resulting in lower potential emissions from these sources.

### Compliance Status

ABC Coke is currently in compliance with all applicable air pollution rules and regulations.



**JEFFERSON COUNTY  
DEPARTMENT OF HEALTH**

## **Exhibit 2**

# **2014 JCDH Death Rates Comparison Report**



## **Summary from the Comparison of Death Rates and Birth Outcomes of African-Americans Living in Collegeville, Fairmont and Harriman Park to African-Americans Living in the Rest of Jefferson County, Alabama**

The Jefferson County Department of Health, using birth and death records maintained by the Alabama Department of Public Health, compared various rates of death and birth outcomes for residents of the North Birmingham communities of Collegeville, Fairmont and Harriman Park to residents of the remainder of Jefferson County for the ten-year period of 2000-2009. The following is a summary of the findings from this analysis:

- The overall death rate for all causes of death combined, deaths from all cancers combined, and for the following cancers individually: breast, leukemia, liver and lung were statistically the same between residents in Collegeville, Fairmont and Harriman Park compared to the rest of Jefferson County. Because there were no brain cancer deaths noted in the Collegeville, Fairmont and Harriman Park communities between 2000 and 2009, the rate is statistically lower than for the rest of Jefferson County.
- The death rates from Asthma and Chronic Obstructive Pulmonary Disease (COPD) were statistically the same between residents in Collegeville, Fairmont and Harriman Park compared to the rest of Jefferson County.
- The rates of infant mortality, stillbirths and birth defects were statistically the same between residents in Collegeville, Fairmont and Harriman Park compared to the rest of Jefferson County.

Comparison of Cancer Incidence Rates for Zip Code 35207 to Jefferson County (Excluding 35207) for African Americans Only, Males and Females, 2002-2011 for Selected Cancer Sites							
Cancer Site	35207 Age-Adjusted Rate 2002 to 2011	Jefferson County (Excluding 35207) Age-Adjusted Rate 2002 to 2011	SIR	Lower Limit SIR	Upper Limit SIR	Observed Cases	Expected Cases
All Sites	521.4	546.8	0.96	0.89	1.05	587	608.6
Oral Cavity and Pharynx	12.9	10.6	1.28	0.71	2.03	15	11.7
Esophagus	7.5	4.9	1.58	0.70	2.81	9	5.7
Stomach	12.1	12.8	0.97	0.52	1.56	14	14.4
Small Intestine	3.9	4.1	0.89	0.22	2.00	4	4.5
Colon and Rectum	66.4	65.9	0.99	0.77	1.23	73	74.0
Liver	5.6	7.0	0.76	0.26	1.50	6	7.9
Pancreas	11.9	15.1	0.82	0.44	1.32	14	17.0
Nose, Nasal Cavity and Middle Ear	1.0	0.7	1.28	0.00	5.12	1	0.8
Larynx	6.7	6.6	1.06	0.44	1.94	8	7.6
Lung and Bronchus	57.4	68.2	0.87	0.67	1.09	68	78.3
Urinary Bladder	9.4	10.4	0.93	0.45	1.58	11	11.8
Kidney and Renal Pelvis	19.7	18.2	1.04	0.63	1.54	21	20.2
Lymphoma	14.5	15.4	1.00	0.56	1.56	16	16.1
Hodgkin Lymphoma	3.8	2.6	1.55	0.39	3.48	4	2.6
Non-Hodgkin Lymphoma	10.6	12.7	0.89	0.45	1.48	12	13.5
Leukemia	7.5	11.7	0.63	0.26	1.16	8	12.6
Lymphocytic Leukemia	3.7	5.4	0.67	0.17	1.50	4	6.0
Acute Lymphocytic Leukemia	0.9	0.8	1.21	0.00	4.84	1	0.8
Chronic Lymphocytic Leukemia	2.7	4.4	0.61	0.11	1.51	3	4.9
Myeloid and Monocytic Leukemia	2.8	5.3	0.53	0.10	1.32	3	5.6
Acute Myeloid Leukemia	1.8	3.6	0.52	0.04	1.52	2	3.8
Acute Monocytic Leukemia	1.0	0.2	6.21	0.00	24.84	1	0.2
Other Leukemia	1.0	0.9	1.00	0.00	3.99	1	1.0

Expected cases are based on the rates for African Americans in Jefferson County excluding 35207.

Rates and SIRs based on less than 6 cases are considered unstable and should be interpreted with caution.

All rates are per 100,000 and age-adjusted to the 2000 U.S. (18 age groups) standard.

An SIR of 1.0 indicates no difference between 35207 and the comparison group.

As SIR > 1.0 indicates more than expected cases, and an SIR < 1.0 indicates less than expected cases based on the comparison group.

The lower limit and upper limit represent 95% confidence intervals for the SIR.

All of the rates and SIRs were found to be within normal ranges (not statistically different from the comparison group).

Source: Alabama Statewide Cancer Registry, 2014.

## **Exhibit 3**

### **JCDH Response to Comments**

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QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

1. My name is Cynthia Rosgen and I have lived at Presbyterian Manor for 6 years. I have COPD, and had lung cancer surgery, 5-9-12. Even though I do have a history of cancer, the soot or smut from ABC Plant, permeates [sic] my apt. In my vents, windows, my carpet no matter how much I dust or vacuum, are black. If we sit outside, it covers everything. The cars, and [sic] it's on our feet when we come in. On rainy, cloudy days you can really see the emissions from the plant. And, [sic] you can tell the difference between regular clouds and those black emissions. It does affect my breathing, my energy, and my appetite is terribly bad. I won't even drink water here. Sometimes they "flush" the system and our water is very dark on those days. I won't even shower. Thank you for your concern for us. We mostly are low-income & elderly here.

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

2. My name is Ethel Nixon. I am a resident at Presbyterian Manor Apartments...926 Overton Avenue...Apt 213 – Tarrant, AL 35217.ABC Coke

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

**is a hazard to my health: 1) Soot comes [sic] into [sic] my apartment through vents, window sills, and my floor is [sic] dirty from soot, 2) Respiratory – Breathing is [sic] not good, 3) Cannot [sic] sit outside because of air pollution.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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- 3. My name is Earl Hines. I live at 926 Overton Avenue, Birmingham, AL 35217. I have a real problem with ABC Coke. I suffer with cancer, heart trouble, high blood, and all kinds [sic] of skin disease [sic]. My home is full of black coal and so are my lungs. All my clothes [sic] stay full of coal dust. I feel like what's killing me is what I don't see.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

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4. My name is Janie Ellis. I live at Presbyterian Manor, 926 Overton Avenue, Tarrant, AL 35217, Apt. 314. My concern is my health. The soot comes [sic] from ABC Coke Plant [sic]. Soot [sic] windows & sills, carpet [sic], vents [sic] in the kitchen, bedroom, and bathroom. Outside the ground is [sic] covered with black [sic] soot. I continue to cough; eyes are watery [sic] & burning. Breathing is impaired [sic] sometimes. Please consider human's [sic] (people) health when renewing ABC Coke Plant [sic].

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

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5. Mr. Barney Fond, 926 Overton Avenue, Apt. 305, Tarrant, AL 35217. Air pollution [sic] is bothering [sic] my breathing. My apartment windows are black [sic]. I wipe out my windows every month. The [sic] windows are black. A lady cleans my apartment every two [sic] weeks and [sic] it's always black on my walls [sic] and furniture. I live across the street from ABC Coke. I cannot [sic] sit outside too [sic] long. On a pretty day, I cannot [sic] sit outside for a long time, because of the pollution [sic].

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

6. My name is Beverly Hill (Presbyterian Manor, 926 Overton Avenue, Apt. 112, B'ham, AL 35217) and I am bothered by dust coming into windows & vents. This affects my severe allergies. I have black dust I my apartment. This dust collects on my blinds, furniture, curtains, and nick-nacks. This causes me to sneeze & cough and have attacks, making me take my over-the counter allergy meds.

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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7. Betty Jones (Presbyterian Manor, 926 Overton Avenue, Apt 411, B'ham, AL 35217). My concerns regarding the ABC Coke Plant are the following: 1) The pollution is [sic] all over my furniture, 2) My rug is "grimy" and it looks black (It [sic] supposed to be gray.), 3) At night, I cannot hardly [sic] breathe, because of the pollution. I have to put a towel over my nose, so I can breathe, 4) The vent out in the hallway and the black stuff comes out all over the floors & hallway, 5) When I turn on the air and heat it makes all the "black stuff" worse in my home, 6)

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

**When the air comes on at night, I begin to cough and cough because of the pollution [sic] in the air, 7) The window sills have all the "black stuff" pollution all over the sill, all the time, 8) When I walk in and through my apartment my shoes have "black stuff" all over them.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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- 8. I am Margaret Curtis. I have lived [sic] around this air pollution all my life [sic] from Sloss and ABC Plant. Now, I am on oxygen day and night. All this pollution comes in my apartment [sic]. My windows are closed [sic] and [sic] it travels in my vents. I am also a heart patient [sic]. I have COPD. All that black stuff comes [sic] in. I can't sit outside [sic] too [sic] long. It's [sic] also in my carpet, and [sic] the bottom of my shoes are [sic] black. They need to do something for all that pollution, because it is hurting me and the rest of us in the Presbyterian Manor. Something needs [sic] to be done.**

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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9. **Wallace Williams, Jr. Congested at night, difficulty breathing. Doctor [sic] prescribed inhaler but that does not help. I try opening the window and the air does not help me get good quality air to breathe. Eye allergies - my eye waters [sic] & itch "badly" [sic] all the time. It is worst [sic] at night, when I have my windows up. Skin rash Dr. gave prescription, but the cream does not help the rash. I cannot [sic] get air & I get "scared" & "panicky". Water has an odor and different color.**

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QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

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10. (Veronica Melton, Presbyterian Manor, 926 Overton Avenue, Apt. 105, B'ham, AL 35217) I was living at 3052 32<sup>nd</sup> Avenue West. I was 17 when we moved to 3320 32<sup>nd</sup> Place North. I moved in here July 1995. I have been here for 18 years. When I clean my apartment there is black dust everywhere. I can dust me and have dust (illegible). I was diagnosed with MS in 1982. I have shortness of breath.

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QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

tions unannounced day and night to ensure compliance of all federal, state, and local regulations.

- 11.(Sharon Boshell, Presbyterian Manor, 926 Overton Avenue, Apt. 108, Tarrant, AL 35217). I moved to Presbyterian Manor in December 2013; picked up the keys on 12-17-13, I believe. By the evening of the 17<sup>th</sup> I started to have a tickle and sore throat. By the next day I had severe bronchitis, which lasted for over two months, as I recall. There was black, fine dust on the floors & counters from the first day. I have set up an air filter in my bedroom.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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- 12.My name is Emory Harris...I am a resident at Presbyterian Manor Apartments...926 Overton Avenue, Apt. 303—Tarrant, AL 35217. In regard to ABC Coke Plant I am less than 500 hundred feet from the plant. Soot comes in vent. 1) Bedroom, bathroom, kitchen, living room,**

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

windows & window sill. I have to clean often, 2) I cannot walk outside. The [sic] ground is [sic] covered with soot...bottom of my shoes are [sic] black, 3) Sleep not good, 4) Appetite poor, 5) Breathing not good. Please consider new permit. People are suffering from ABC pollution. I have been living here 5 years and 9 months.

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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**13. Please consider new permit. People are suffering from ABC pollution. I have been living here 5 years [sic] & 9 months.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe ex-

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**14. My name is Shirley Ball. I live at 926 Overton Avenue, Apt. 216, Tarrant, Alabama 35217. I have breathing problems. When I go outside I have trouble breathing. I go outside for fresh air but, [sic] because of the pollution [sic], I cannot stay long.**

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**15. (Gayle Cobb, 926 Overton Avenue, Apt. 215, Tarrant, Alabama 35217). I live across the street from ABC Coke owned by Drummond Company. I look outside my window every day and see black clouds they could be**

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

white. Because of the pollution they are black. I was raised in Birmingham, Alabama. The community I grew up in an [sic] area that did not have a plant. Good clean air. 1970s I moved to Collegeville with my birth mother and pollution was bad. Jim Walters Coke was making me sick. My daughter was born 1982. My daughter has [sic] breathing problems she goes the doctor at least three to four time a year. My skin was burning and my eyes were hurting, itching and red [sic]. I left Collegeville and moved [sic] back with my grandmother's [sic] house. I raise my daughter in in Raising West Princeton. I live at Presbyterian Manor Apartment. I am on a fixed [sic] income. My health [sic] is not good. Sometime I will go all day without eating, nausea. Sometime I know I am too [sic] old to have another child. I should not have a problem with my stomach. My eye surgeon, Dr. John Long, was concerned [sic] about my left eye. Dr. Long did a surgical procedure on my left eye in 2000. He wanted to know why my eye was in the [illegible]. Maybe it was years ago. The first operation was [illegible]. I left Collegeville. Dr. Long told me my eye lid was not supposed to drop again. I need the surgical procedure again. I told Dr. Long I live across the street from ABC Coke. Surgical procedure (Ectnopion??). Ectnopion, the turning out of an eye lid so that it does not lie closed [sic] on the surface of the eyeball.

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FOR ABC COKE

plishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**16. My name is Barbara Johnson. I been around these plants all my life have. I have shortness [sic] of breath from fumes from the plant. It's coming [sic] from the plant. It's coming [sic] through the vents in my apartment. It makes me sick at night and day, coming through my vents and on the outside when I go outside, I have a bad cough in my throat from this.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**16. (Betty Hobson??, Presbyterian Manor). I live at Presbyterian Manor on the fourth floor. My living room and bed room windows overlook the roof that's over the office and entrance. It is covered in thick soot that**

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**never washes off. I can't ever open my windows because it blows inside my apartment.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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**17. I have a breathing problem that is getting worse. I now have a heart condition that is caused partly by pollution. Cutting back on emissions would help all of us here. Please consider us by giving us fresher air to breathe.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe ex-

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- 18. My name is Charline Todd, Presbyterian Manor, 926 Overton Avenue, Tarrant, AL 35217. This is in regards to ABC Coke Air Pollution. Black soot from the plant comes in my apartment; gets on my clothes, get on window sills. I have breathing problems and no appetite [sic]. I'm concerned [sic] because I have cancer [sic] and COPE. I am on oxygen 24 hours per day/ 7 days per week [sic] now.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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**19. I am Curtis Null?? I have been [sic] on Doctor White's medicine for sugar and heart medicine. Since I have been [sic] living at Presbyterian Manor and other illnesses [sic] for years, I believe [sic] I have developed a bad cough from ABC Coke because I have black particles in the water I drink and through the vents in my apartment (#206) and in the window black dust and vents and outside on the grounds. It's getting bad.**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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**20. Gracie Bogan. I have been living here 9 years and the pollution has gotten worse [sic]. I am a diabetic with health problems and the ABC Coke plant makes my condition terrible. Over the past year I was told I have to take treatments from a breathing machine. Going outside is no longer pleasurable because of coughing and inhaling the fumes from across the street. There is a lot of black dust in my house all the time. I am right off of (Highway) 79.**

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Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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**21. Mildred Marbury??, 926 Overton Avenue, Apt. 408, B'ham, AL 35217.**

**My health concern is allergies and high blood pressure. When I lived here I had allergy attacks of sneezing, coughing, headaches, wheezing and shortness of breath [sic]. I continue to have breathing difficulties and shortness of breath and give out easily. I lived here for five years. However, I continued [sic] to work here for the past year. When I lived here there was a continuous amount of black dust in my apartment. It was on the window sills, blinds, furniture, and floors. I was on the side of the Coke Plant and could actually see the pollution in the air. It would seem like it was thick in the air at times. We need help. We seniors need just a little help from someone to care about us!**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evi-

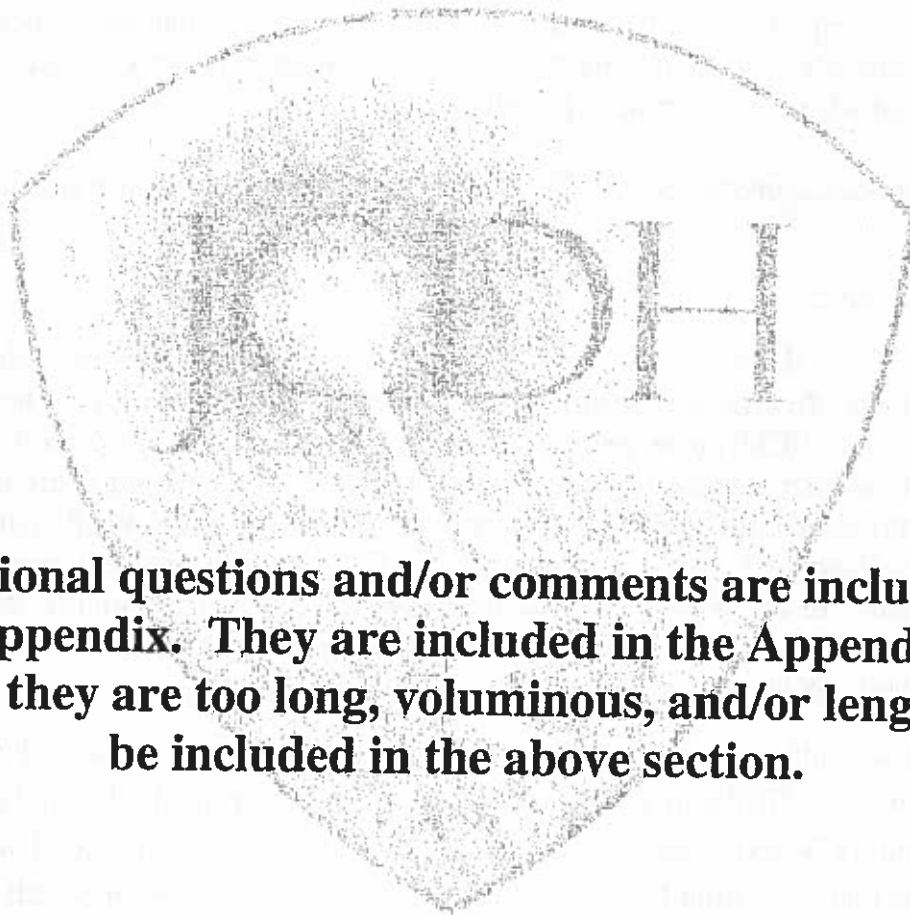
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dence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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**Additional questions and/or comments are included in the Appendix. They are included in the Appendix because they are too long, voluminous, and/or lengthy to be included in the above section.**

## Appendix

### 1. See Appendix – Attachment A-1

In response to request to modify comments submitted, the Department does not allow the modification of comments previously submitted in the modifications are submitted outside of the comment period.

This Department appreciates GASP's concern and interest in/ for the community.

Regarding health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in

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this area. This information can be found at  
<http://www.epa.gov/schoolair/schools.html>.

The Department currently uses the acceptable risk range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  guidance provided by EPA for individual and cumulative concentrations; however, it is the Department's goal to continue to improve all air toxics levels to the lower end of the risk range. The Department achieves this goal by conducting air toxics studies in conjunction with EPA and through NESHAP and MACT standards enforcement.

Again, while there are bound to be some emissions of odors and particulate matter from the facility, the facility is currently in compliance, based on the latest inspection completed at the facility. The Department has consistently encouraged the community residents in the event of observing excess emissions, soot, or odors crossing property boundaries/lines to promptly notify the Department by calling 930-1239 to file a timely complaint.

Comments regarding draft permit conditions, specifically Permit Conditions 14 and 45 have been approved by the state environmental agency, ADEM and are deemed to be appropriate, as written, and federally-enforceable. However, the Department has modified Permit Condition No. 14 to address your concerns by adding specific measures to control fugitive emissions.

**2. See Appendix –Attachment A-2**

**Response to Comment 1**

With respect to the discrepancy in CO emissions, the actual emissions used in the permit renewal are available upon request in the permit application. The 15723.74 tons of CO referenced was a calculation estimate that was based on old factors and was not corrected in the database. The actual number of 763.004 tons per year as referenced in the public noticed engineering evaluation is correct and is based on EPA published AP-42 emission factors. There is not an actual difference as the permit was based on the correct emissions as determined by the Department. Please note that the 2013 emissions will load up with updated factors after they are submitted to EPA in December 2014. Finally, the engineering evaluation's reference to "see the attached" is in referring to the application materials which are

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submitted to EPA and ADEM. A redacted copy of this document is available for viewing.

**Response to Comment 2**

All emission units listed are in accordance with their respective requirements for controls and monitoring.

**Response to Comment 3**

The Department uses EPA approved factors and methods along with production data, the most recent stack test data, observations, and various reports to calculate the facility's current emissions.

Opacity is an indicator of proper or improper operation of control equipment and is used in part to estimate emissions which include Hazardous Air Pollutants (HAPs). This is done using the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for Coke Ovens: Pushing, Quenching, and Battery Stack-Background Information for Proposed Standards (EPA-453/R-01-006). This procedure assigns a hood capture efficiency based on maximum opacity observed during an individual push. The Department reads pushes monthly and uses this information to assign and average capture efficiencies of each battery. The average is used in conjunction with AP-42 Chapter 12 factors to estimate emissions (both HAPs and criteria air pollutants). Further, it is used to evaluate the efficiency of the emergency bleeder flares which help determine the amount of HAPs emitted.

The Continuous Opacity Monitors (COMs) are designed to measure the opacity from the underfire stacks as required by 40 CFR 63 Subpart CCCCC.

**Response to Comment 4**

The Jefferson County Department of Health thanks you for your comments and will take the commenter's suggestions on continuing to make permits more readable.

It is the Department's goal to make Title V Permits as readable as possible; however, consideration must be given to the fact that permits are mainly written to contain technical language that are meant to enforce the regulations that are applicable to the facility and show the complexity of the facility's processes.

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The pollutant emission limitations are typically located on the first page of each emission unit with the regulatory requirement listed to provide a quick overview for the public.

The Department also provided fact sheets along with a presentation at the public information session located at Tarrant Elementary School on March 19, 2014 to explain issues specific to the ABC Coke Title V Renewal.

The Department also conducted a "Proof is in the Permit" training that can be accessed on the Jefferson County Department of Health that shows the requirements of the Title V Permitting Process in everyday language. This program was developed in collaboration with the EPA and is based on the EPA version of the "Proof is in the Permit" located at:

<http://www.epa.gov/oaqps001/permits/partic/proof.html>

If any residents have any difficulty understanding any aspect of a specific permit, the Department will provide assistance as needed.

#### **Response to Comment 6**

When a condition and regulation are included and accepted by the source it is considered as part of the permit and thereby practically enforceable. However, in order to address your concerns the Department has modified condition 14 to include the specific measures that ABC Coke must use to ensure the enforceability of the condition. The Department thanks you for your comment.

#### **Response to Conclusions**

(1) The commenter's interpretation of the Jefferson County Board of Health Air Pollution Control Rules and Regulations (the "Regulations") is incorrect. The Health Department enforces and applies all applicable federal, state, and local regulations, including, as to ABC Coke, the EPA's National Emissions Standards for Hazardous Air Pollutants ("NESHAPs") and the Maximum Achievable Control Technology regulations ("MACT"). ABC Coke's compliance with these regulations, and the Health Department's regulatory efforts to maintain ABC Coke's compliance, best ensure that ABC Coke does not emit prohibited air pollution.

(2) See response to item (1) above.

(3) See response to item (1) above.

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(4) See response to item (1) above.

(5) The Health Department has not been provided evidence that would show that the renewal of ABC Coke's permit would unlawfully impact or violate the civil rights of minorities. As detailed throughout this document, the Health Department's efforts to inform and involve the public throughout the permit renewal process have exceeded the requirements of applicable law. For example, the Health Department chose to allow significantly more time for the public to submit comments than was required. The Health Department chose to hold a public information meeting in Tarrant on March 31, 2014, during which time the Health Department received questions from the public and shortly thereafter provided written responses. In addition, the Health Department held a public hearing (for over three hours) on April 14, 2014, and allowed every individual who wished to speak to do so.

(6) The provisions of the Health Department's Regulations governing fugitive dust have not been declared unconstitutional. Furthermore, ABC Coke has not objected to the enforceability of these provisions or to the inclusion of such requirements in its permit. Irrespective, the Department has decided to modify the permit. See Response to Comment No. 6 above.

(7) The draft permit does not limit the Health Officer's power to abate unlawful odors under the Regulations. The draft permit specifically quotes and includes § 6.2.3 of the Regulations, which governs unlawful odors. Draft Permit General Condition 45 provides an additional control of odors that supplements the requirements of § 6.2.3 of the Regulations.

(8) The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this re-

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quest is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**3. See Appendix –Attachment A-3**

The Department issues all Title V permits in accordance with the requirements 40 CFR 70.

**Regarding health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

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The Department conducts ambient air quality monitoring at Tarrant Elementary School. This monitor is part of a large monitoring network throughout Jefferson County to determine compliance with federal healthy air standards. The county is currently designated as in attaining all federal standards for healthy air.

As EPA funding allows and EPA mandates:

The Department conducts air toxics monitoring studies in conjunction with EPA. Based on monitored concentrations, the EPA then typically conducts a risk assessment to determine if emissions need to be reduced. The risk assessment is then used to determine if health related studies are warranted by the Agency for Toxic Substance and Disease Registry (ATSDR) which conducts public health assessments using the monitored concentrations.

The JCDH relies on the EPA and the ATSDR to conduct health/pollution related correlation studies. These type studies require resources that are not readily available at a local level. To view the process for a risk assessment please visit: <http://epa.gov/riskassessment/basicinformation.htm#arisk>.

Visit <http://www.atsdr.cdc.gov/training/public-health-assessment-overview/html/> for a definition of public health assessments or <http://www.atsdr.cdc.gov/HAC/PHA/HCPHA.asp?State=AL> for public health assessments and consultations conducted in the State of Alabama.

#### **Response to Note**

The Department offers the web version of the permit as a public service to the residents of Jefferson County for easy access. A hard copy of the permit can be viewed anytime during the permitting cycle at the Jefferson County Department of Health office located at 1400 Sixth Avenue South Birmingham, AL 35233 or can be emailed upon request if a technical difficulty occurs on the website. This permit was made available from February 9, 2014- April 17, 2014 on the website. The Department apologizes for a computer glitch on April 18, 2014 that took the permit down from 12 am until 2 pm due to the changes made during extensions of the comment period. The Department personnel worked diligently to get the permit back up as soon as they were made aware of this problem and are currently taking steps to make sure this error does not occur in any future permitting cycles.

#### **4. See Appendix – Attachment A-4**

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This Department appreciates your concern for the community.

The Department conducts ambient air monitoring in and around the facility including a monitoring site located at Tarrant Elementary School to monitor criteria (pollutants).

Regarding health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

Regarding the acceptable risk range for air toxics:

The Department currently uses the acceptable risk range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  guidance provided by EPA for individual and cumulative concentrations; however, it is

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the Department's goal to continue to improve all air toxics levels to the lower end of the risk range. The Department achieves this goal by conducting air toxics studies in conjunction with EPA and through NESHAP and MACT standards enforcement.

The Department conducts air toxics monitoring studies in conjunction with EPA. Based on monitored concentrations, the EPA then typically conducts a risk assessment to determine if emissions need to be reduced. The risk assessment is then used to determine if health related studies are warranted by the Agency for Toxic Substance and Disease Registry (ATSDR) which conducts public health assessments using the monitored concentrations.

The JCDH relies on the EPA and the ATSDR to conduct health/pollution related correlation studies. These type studies require resources that are not readily available at a local level. To view the process for a risk assessment please visit: <http://epa.gov/riskassessment/basicinformation.htm#arisk>.

Visit <http://www.atsdr.cdc.gov/training/public-health-assessment-overview/html/> for a definition of public health assessments or <http://www.atsdr.cdc.gov/HAC/PHA/HCPHA.asp?State=AL> for public health assessments and consultations conducted in the State of Alabama.

The JCDH has not currently received any federal requests to conduct and/or assist in any additional health/pollution studies in the Tarrant Area. The Department is only mandated to conduct monitoring for criteria air pollutants. In addition, the Department does not have the capacity to conduct specialized, comprehensive health assessments. The Department works closely with organizations such as ATSDR to complete these types of assessments.

The Department encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions or observe unpleasant odors.

The Department promptly responds to all complaints received and provides follow-up to the complainant at their request. Due to the time sensitive and nature of air complaints, the Department would request any residents to file a complaint with the Department immediately upon seeing any visible emissions, odors, or other air pollution violations.

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The Department has strived to obtain meaningful input during the public notification of the draft Title V renewal permit for ABC Coke. The Environmental Protection Agency currently requires the Department to:

"Publish a notice to inform public of (1) the public comment period (usually 30 days) for the draft permit, and (2) establish a deadline for requesting a public hearing on the draft permit. The notice can be published in a newspaper of general circulation in the area where the source is located or in a State publication, like a State register. The permitting authority must mail notices of draft permits to persons who have requested to be on a mailing list."

(see: <http://www.epa.gov/region9/air/permit/titlev-public-part.html>)

The Department has exceeded the minimum requirements of involving the public in the process of issuing the renewal permit for ABC Coke to ensure that any potential affected citizens have had an opportunity to comment. The Department made the decision to grant various requests by the public in order to be responsive to permitting concerns.

The following demonstrates how the Department has met environmental justice guidance concerning permitting.

The Department took the following steps to ensure greater public involvement:

- 1) Published draft permit and public notice on February 9, 2014 both in the Birmingham News and the JCDH website;
- 2) Granted and published public hearing notice on March 9, 2014 in the Birmingham News allowing the public 36 days (instead of the minimum of 30 days) before the date of the public hearing on April 14, 2014;
- 3) Held training for North Birmingham Community Leaders March 19, 2014 on coke plant operations;
- 4) Held public information meeting on March 31, 2014 at Tarrant Intermediate School in order to give the public/affected residents a chance for meaningful involvement;

Regarding notification of the public information meeting, required advance notice of public was given in the Birmingham News, on the Department's website, on signage in front of Tarrant Elementary for eleven days.

The meeting was covered by various news agency including ABC 33/40, CBS 42, Fox 6, AL.com, and a few other news agency throughout Birmingham. The JCDH conducted interviews with all these agencies and informed the public of their op-

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portunity to get involved in the process. (Not required) JCDH also passed out permit fact sheets, timelines for Walter Coke and ABC permitting important dates, and slideshows to the public.

The Department received comments on written cards at this public information meeting which were all answered by JCDH on April 9, 2014 so questions and answers could be received and analyzed before the public hearing. The comments were mailed out during the final week of April 2014. This document is included in the permitting record.

- 5) Granted and held a public hearing regarding the Title V Permit for ABC Coke on April 14, 2014 from 1:00-4:00 at JCDH's Conference Room A.
- 6) Held additional permitting process and coke plant training on April 12, 2014 and April 15, 2014 at the North Birmingham Library and the Harri-man Park Recreation Facility.
- 7) Extended the public comment period closed on April 18, 2014 giving an effective comment period of 68 days (as opposed to the regulatory minimum of 30 days).

**5. See Appendix – Attachment A-5**

The Department would like to thank you for your comment.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced daytime and evening inspections in addition to field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Current-

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ly, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

**Regarding DIAL:**

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**6. See Appendix – Attachment A-6**

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The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, observe soot or unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

Regarding Health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in

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**7. See Appendix –Attachment A-7**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly

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**8. See Appendix –Attachment A-8**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

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**9. See Appendix – Attachment A-9**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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Regarding DIAL:

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

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**10. See Appendix – Attachment A-10**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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**Regarding DIAL:**

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**11. See Appendix – Attachment A-11**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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Regarding DIAL:

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be

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shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**12. See Appendix -Attachment A-12**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conduct unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke

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plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

Regarding DIAL:

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**13. See Appendix –Attachment A-13**

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To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be

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**14. See Appendix – Attachment A-14**

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The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

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standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

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**15. See Appendix – Attachment A-15**

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Regarding Health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

Regarding DIAL:

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The

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availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DI-AL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**16. See Appendix – Attachment A-16**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and ben-

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zo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

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The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**17. See Appendix –Attachment A-17**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

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To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

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Regarding DIAL:

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to

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There has not been given any special consideration, as of yet, since ABC Coke is located in an environmental justice area. Additional measures are, however, being evaluated with the assistance of EPA.

**18. See Appendix –Attachment A-18**

**Response to Comment 1**

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Current-

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JCDH follows all federal standards for the allowing of self reporting for industrial sources.

## **Response to Comment 2**

Currently, the JCDH Air and Radiation Division utilize the main 24-hour contact number for reporting public health emergencies at (205) 933-9110 (works for nights and weekends). This number will report to the on-call nurse who can then refer the call to the on-call Environmental Health Staff. These calls may, depending on severity, lead to an immediate inspection.

This comment will be evaluated to see if there is an easier method to route air pollution-related calls during evenings/nights and on weekends.

During normal business hours of 7:45 am to 4:30 pm, the Department encourages you to call (205) 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

## **19. See Appendix – Attachment A-19**

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The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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**20. See Appendix – Attachment A-20**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions, soot, or observe unpleasant odors.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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Regarding DIAL:

The use of Differential Absorption Light Detection and Ranging (DIAL) would be based on a need provided to JCDH from EPA to monitor pollutants in addition to actual monitoring that has already occurred in the Tarrant area. This would be in supplement to the MACT and NESHAP standards that are written and assessed by EPA. The Department has no basis or ability to require such monitoring. The availability of this technology is very limited and still uses methods to estimate emissions at the facility rather than measuring actual ambient concentrations. DIAL is, accordingly, not feasible as a long-term monitoring method as it must be shipped (large truck) from the National Physics Laboratory, located in the United Kingdom and its availability is unknown. Technologies such as this and others are used to determine whether regulations are effective. As such, this request is not a local permitting issue of/by the Department but more of an EPA policy issue and should be addressed by EPA.

**21. See Appendix – Attachment A-21**

The Department appreciates your comment.

The Department has exceeded the minimum requirements for involving the public in the process of issuing the renewal permit for ABC Coke to ensure that any potential affected citizens have had an opportunity to comment. The Department made the decision to grant various requests by the public in order to be responsive to permitting concerns.

The following demonstrates how the Department has met environmental justice guidance concerning permitting.

The Department took the following steps to ensure greater public involvement:

- 1) Published draft permit and public notice on JCDH website;
- 2) Granted and published public hearing notice on March 9, 2014 in the Birmingham News allowing the public 36 days (instead of the minimum of 30 days) before the date of the public hearing on April 14, 2014;
- 3) Held training for North Birmingham Community Leaders March 19, 2014 on coke plant operations;

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- 4) Held public information meeting on March 31, 2014 at Tarrant Intermediate School in order to give the public/affected citizens a chance for meaningful involvement;

Regarding notification of the public information meeting, required advance notice of public was given in the Birmingham News, on the Department's website, on signage in front of Tarrant Elementary for eleven days.

- 5) Granted and held a public hearing regarding the Title V Permit for ABC Coke on April 14, 2014 from 1:00-4:00 at JCDH's Conference Room A;
- 6) Held additional permitting process and coke plant training on April 12, 2014 and April 15, 2014 at the North Birmingham Library and the Harri-man Park Recreation Facility;
- 7) Extended the public comment period closed on April 18, 2014 giving an effective comment period of 68 days (as opposed to the regulatory minimum of 30 days).

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

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In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

**22. See Appendix –Attachment A-22**

**Response to Comment 1**

While emissions from proximate facilities may indeed commingle, the requirements of Federal law requires each separate facilities with different property owners to have separate Title V permits. Accordingly, each Title V permit is regulated separately.

As of right now, there are no plans for additional monitoring and subsequent health assessment of air pollutants. The JCDH has not currently received any federal requests to conduct and/or assist in any additional health/pollution studies in the Tarrant Area. The Department is only mandated to conduct monitoring for criteria air pollutants. In addition, the Department does not have the capacity to conduct specialized, comprehensive health assessments. The Department works closely with organizations such as ATSDR to complete these types of assessments.

A relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene

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that were found to be below levels of concern. This was stated by EPA "At Tarrant Elementary, concentrations of benzene, arsenic, lead, and benzo(a)pyrene were found to be below levels of concern. As a result, the air toxics monitoring study will not be extended at this school". This information can be found at <http://www.epa.gov/schoolair/schools.html>

In addition, an even more recent study in the North Birmingham area yielded that air toxics pollutant concentrations have decreased at the Shuttlesworth site, right across the street from Walter Energy, from 2005-2006 levels to 2011-2012 levels.

**Response to Comment 2**

The Department is responsible for enforcing air pollution regulations and ensuring air quality. The Department coordinates regularly with ADEM's Air Division and EPA's Region 4 Air, Pesticides and Toxics Program on air related issues. Any other media is coordinated through EPA and various other agencies. JCDH does not have any regulatory authority over superfund soil or water issues.

**Response to Comment 3**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions or observe unpleasant odors.

**23. See Appendix – Attachment A-23**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department

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would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**24. See Appendix – Attachment A-24**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**25. See Appendix- Attachment A-25 – Comments # 1 -26**

**1) Comment #1 (Page 11-14)**

The Department issues all Title V permits in accordance with the requirements 40 CFR 70.

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Regarding Health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

The Department conducts ambient air quality monitoring at Tarrant Elementary School. This monitor is part of a large monitoring network throughout Jefferson County to determine compliance with federal healthy air standards. The county is currently designated as in attaining all federal standards for healthy air. As EPA funding allows and EPA mandates:

The Department conducts air toxics monitoring studies in conjunction with EPA. Based on monitored concentrations, the EPA then typically conducts a risk assessment to determine if emissions need to be reduced. The risk assessment is then

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used to determine if health related studies are warranted by the Agency for Toxic Substance and Disease Registry (ATSDR) which conducts public health assessments using the monitored concentrations.

The JCDH relies on the EPA and the ATSDR to conduct health/pollution related correlation studies. These type studies require resources that are not readily available at a local level. To view the process for a risk assessment please visit: <http://epa.gov/riskassessment/basicinformation.htm#arisk>. Visit <http://www.atsdr.cdc.gov/training/public-health-assessment-overview/html/> for a definition of public health assessments or <http://www.atsdr.cdc.gov/HAC/PHA/HCPHA.asp?State=AL> for public health assessments and consultations conducted in the State of Alabama.

**2) Comment #2 (Page 15-17)**

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) work with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conduct unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse

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health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

**3) Comment #3 (Pages 18-24)**

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) work with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conduct unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/inactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and ben-

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zo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

JCDH does not have regulatory authority over any soil or superfund related issue, therefore any soil information must be handled by EPA

**4) Comment #4 (Pages 24-28)**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions or observe unpleasant odors.

With respect to your concerns about health, the applicable rules and regulations incorporated into the permit are meant to reduce, minimize, and/or eliminate pollutants so that citizens' health will not be adversely impacted. In addition, the Department conducts monitoring within the vicinity of ABC Coke). Based on these monitoring results, the county is currently designated as meeting all federal standards for clean air. In addition, with respect to air toxics, concentrations of air toxics as measured at Tarrant Elementary during the School Air Toxics Monitoring campaign did not result in any unacceptable risks, as determined by the USEPA. This information can be found at <http://www.epa.gov/schoolair/schools.html>

The Department currently uses the acceptable risk range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  guidance provided by EPA for individual and cumulative concentrations; however, it is the Department's goal to continue to improve all air toxics levels to the lower end of the risk range. The Department achieves this goal by conducting air toxics stud-

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ies in conjunction with EPA and through NESHAP and MACT standards enforcement.

**5) Comment #5 (Pages 29-32)**

The Department understands your concerns.

**6) Comment #6 (Pages 33-34)**

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalplh.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke

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plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

**7) Comment #7 (Page 34-37)**

No answer.

**8) Comment #8 (Page 37-40)**

The Department currently uses the acceptable risk range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  guidance provided by EPA for individual and cumulative concentrations; however, it is the Department's goal to continue to improve all air toxics levels to the lower end of the risk range. The Department achieves this goal by conducting air toxics studies in conjunction with EPA and through NESHAP and MACT standards enforcement.

In addition, the applicable rules and regulations incorporated into the permit are meant to reduce, minimize, and/or eliminate pollutants so that citizens' health will not be adversely impacted. In addition, the Department conducts monitoring within the vicinity of ABC Coke). Based on these monitoring results, the county is currently designated as meeting all federal standards for clean air.

In addition, with respect to air toxics, concentrations of air toxics as measured at Tarrant Elementary during the School Air Toxics Monitoring campaign did not result in any unacceptable risks, as determined by the USEPA. This information can be found at <http://www.epa.gov/schoolair/schools.html>

**9) Comment #9 (Pages 41-42)**

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The Department would like to thank you for your comment and ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) work with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducts inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**10) Comment #10 (Pages 42-44)**

The Department would like to thank you for this comment. The Department, since the public hearing, is analyzing ways to include interpreters and staff to address multilingual communities. The Department had an interpreter present at the Walter Coke public hearing and will make this a part of an Environmental Health Services policy moving forward.

**11) Comment #11 (Pages 44-46)**

All Title V permits issued every five year basis in accordance with the federal requirements of 40 CFR Part 70.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly

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National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

Regarding zoning Issues:

The Department has no authority when it relates to zoning issues. Please contact your local county or zoning board with regards to these issues.

**12) Comment #12 (Pages 46-50)**

The Department appreciates your concern for the community.

The Department would like to thank you for this comment and will incorporate evaluation methods into further public hearings according to public interest. With respect to the size and location of the public hearing for ABC Coke, the Department held the public hearing open from 1:00 pm to 4:00 pm to allow for citizens to

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comment any time during that period. For future public hearings, the Department has taken steps to ensure the adequacy of seating capacity and that the location will be held in a place that's more accessible to affected citizens. As a result of these and similar requests, the Department held the Walter Coke public hearing at a community centralized location the North Birmingham Library from 4:00 pm – 7:30 pm.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

Regarding Health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results

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indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

**13) Comment #13 (Pages 51-55)**

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions or observe unpleasant odors. While the Department's standard working hours are from 7:45 am to 4:30 pm, the Department conducts night-time inspections of the facility and/or observations of the area to observe the presence of any excess emissions that may occur at night.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfulalph.html>.

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In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

The Department currently uses the acceptable risk range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  guidance provided by EPA for individual and cumulative concentrations; however, it is the Department's goal to continue to improve all air toxics levels to the lower end of the risk range. The Department achieves this goal by conducting air toxics studies in conjunction with EPA and through NESHAP and MACT standards enforcement.

With respect to complaints, the Department responds to complaints as promptly as possible. The Department resultantly responds back to the complainants on the results of any investigations. If there are concerns about any specific complaint please call (205)930-1239.

Regarding Time and Place of Hearing:

The Department would like to thank you for this comment and will incorporate evaluation methods into further public hearings according to public interest. With respect to the size and location of the public hearing for ABC Coke, the Department held the public hearing open from 1:00 pm to 4:00 pm to allow for citizens to comment any time during that period. For future public hearings, the Department has taken steps to ensure the adequacy of seating capacity and that the location will

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be held in a place that's more accessible to affected citizens. As a result of these and similar requests, the Department held the Walter Coke public hearing at a community centralized location the North Birmingham Library from 4:00 pm – 7:30 pm.

**14) Comment #14 (Pages 55-58)**

The Department appreciates your concern for the community.

Regarding and Time and Place of Hearing:

The Jefferson County Department of Health granted both a public information meeting and public hearing for the residents of Tarrant.

The following demonstrates how the Department has met environmental justice guidance concerning permitting.

The Department also conducted the following above and beyond the minimum requirements for Title V Participation:

- 1) Published draft permit and public notice on JCDH website.
- 2) Granted and published public hearing notice on March 9, 2014 in the Birmingham News allowing the public 36 days (instead of the minimum of 30 days) before the date of the public hearing on April 14, 2014;
- 3) Held training for North Birmingham Community Leaders March 19, 2014 on coke plant operations;
- 4) Held public information meeting on March 31, 2014 at Tarrant Intermediate School in order to give the public/affected citizens a chance for meaningful involvement;

Regarding notification of the public information meeting, required advance notice of public was given in the Birmingham News, on the Department's website, on signage in front of Tarrant Elementary for eleven days.

- 5) Granted and held a public hearing regarding the Title V Permit for ABC Coke on April 14, 2014 from 1:00-4:00 at JCDH's Conference Room A;
- 6) Held additional permitting process and coke plant training on April 12, 2014 and April 15, 2014 at the North Birmingham Library and the Harri-man Park Recreation Facility;

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- 7) Extended the public comment period closed on April 18, 2014 giving an effective comment period of 68 days (as opposed to the regulatory minimum of 30 days;

The Department would like to thank you for this comment and will incorporate evaluation methods into further public hearings according to public interest. With respect to the size and location of the public hearing for ABC Coke, the Department held the public hearing open from 1:00 pm to 4:00 pm to allow for citizens to comment any time during that period. For future public hearings, the Department has taken steps to ensure the adequacy of seating capacity and that the location will be held in a place that's more accessible to affected citizens. As a result of these and similar requests, the Department held the Walter Coke public hearing at a community centralized location the North Birmingham Library from 4:00 pm – 7:30 pm.

The Permit renewal process for facilities is determined by the permit expiration date and due to the various avenues for public involvement JCDH extended both Permit comment periods from the normal 30 day requirement to 60 days for both permits. JCDH also as mentioned above conducted various locations for community involvement.

With respect to the size and location of the public hearing, for future similarly occasions, we will try to ensure the adequacy of seating capacity and that the location will be held in a place that's more accessible to affected citizens. As a result, for the hearing on Walter Coke, we will be conducting the hearing in the afternoon within the community.

**15) Comment #15 (Pages 58-62)**

The Department appreciates your concern for the community.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

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Regarding Health:

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In, addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

The Department conducts air toxics monitoring studies in conjunction with EPA. Based on monitored concentrations, the EPA then typically conducts a risk assessment to determine if emissions need to be reduced. The risk assessment is then used to determine if health related studies are warranted by the Agency for Toxic Substance and Disease Registry (ATSDR) which conducts public health assessments using the monitored concentrations.

The JCDH relies on the EPA and the ATSDR to conduct health/pollution related correlation studies. These type studies require resources that are not readily available at a local level. To view the process for a risk assessment please visit: <http://epa.gov/riskassessment/basicinformation.htm#arisk>.

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Visit <http://www.atsdr.cdc.gov/training/public-health-assessment-overview/html/> for a definition of public health assessments or <http://www.atsdr.cdc.gov/HAC/PHA/HCPHA.asp?State=AL> for public health assessments and consultations conducted in the State of Alabama.

The JCDH has not currently received any new or additional federal funding to conduct and/or assist in any additional health/pollution studies in the Tarrant Area. The Department is only mandated to conduct monitoring for criteria air pollutants. In addition, the Department does not have the capacity to conduct specialized, comprehensive health assessments. The Department works closely with organizations such as ATSDR to complete these types of assessments.

The Department would like to thank you for this comment and will incorporate evaluation methods into further public hearings according to public interest. With respect to the size and location of the public hearing for ABC Coke, the Department held the public hearing open from 1:00 pm to 4:00 pm to allow for citizens to comment any time during that period. For future public hearings, the Department has taken steps to ensure the adequacy of seating capacity and that the location will be held in a place that's more accessible to affected citizens. As a result of these and similar requests, the Department held the Walter Coke public hearing at a community centralized location the North Birmingham Library from 4:00 pm – 7:30 pm.

**16) Comment #16 (Pages 62-64)**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

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Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**17) Comment #17 (Pages 64-66)**

The Department appreciates your concern for the community.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke

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plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

The Department understands your concerns and encourages you to contact us as soon as possible at 930-1239 to file a timely complaint when you do see excess emissions or observe unpleasant odors.

**18) Comment #18 (Page 66-70)**

The Department appreciates your comment.

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

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In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

Regarding Public Comment Location and Duration:

The Department would like to thank you for this comment and will incorporate evaluation methods into further public hearings according to public interest. With respect to the size and location of the public hearing for ABC Coke, the Department held the public hearing open from 1:00 pm to 4:00 pm to allow for citizens to comment any time during that period. For future public hearings, the Department has taken steps to ensure the adequacy of seating capacity and that the location will be held in a place that's more accessible to affected citizens. As a result of these and similar requests, the Department held the Walter Coke public hearing at a community centralized location the North Birmingham Library from 4:00 pm – 7:30 pm.

The Permit renewal process for facilities is determined by the permit expiration date and due to the various avenues for public involvement JCDH extended both Permit comment periods from the normal 30 day requirement to 60 days for ABC Coke. JCDH also conducted a public information session at Tarrant Intermediate School.

For ABC Coke, the comment period started on Sunday, February 9<sup>th</sup> and ended on Friday, April 18<sup>th</sup>.

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**19) Comment #19 (Pages 70-71)**

The Department appreciates your comment.

**20) Comment #20 (Pages 71-73)**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) work with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducts inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**21) Comment #21 (Pages 74-80)**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department

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would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) work with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducts inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**22) Comment #22 (Pages 80-81)**

The Department would like to thank you for this comment. The Department, since the public hearing, is analyzing ways to include interpreters and staff to address multilingual communities. The Department had an interpreter present at the Walter Coke public hearing and will make this a part of an Environmental Health Services policy moving forward.

**23) Comment #23 (Pages 81-84)**

Due to the concerns over air pollution and soot at Presbyterian Manor the Department has conducted an indoor air assessment and will continue to work with the community to analyze the comments received during the public comment period. On May 16, 2014, the Department conducted an indoor air inspection. The inspection did not reflect the conditions outlined in the complaints. The Department noted very clean conditions as well as no evidence of soot deposition inside the apartments or in the air handling systems for the building (on the roof). The Department will inspect again if more complaints are received. The Department would ask that if you observe excess emissions, unpleasant odors or soot deposits to call 930-1239 to file a timely complaint.

Jefferson County Department of Health has the mission of improving air quality to protect public health across Jefferson County. The JCDH accomplishes this goal by 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School) 2) conducting inspections unannounced day and night to ensure compliance of all federal, state, and local regulations.

**24) Comment #24 (Pages 85-88)**

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

The Department currently uses the acceptable risk range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$  guidance provided by EPA for individual and cumulative concentrations; however, it is the Department's goal to continue to improve all air toxics levels to the lower end of the risk range. The Department achieves this goal by conducting air toxics studies in conjunction with EPA and through NESHAP and MACT standards enforcement.

**25) Comment #25 (Pages 89-93)**

The county is currently in designated as attaining all federal healthy air standards.

To continue to improve air quality and to protect public health across Jefferson County, the JCDH continues to: 1) working with federal and state programs to conduct ambient air monitoring (Tarrant Elementary School which runs 24 hours a day) and 2) conducting unannounced evening inspections and field observations that are designed to ensure compliance of all federal, state, and local regulations.

**Regarding Health:**

While ABC Coke does emit air toxics (some of which are carcinogens including benzene, dibenzofurans, ethyl benzene naphthalene, PAHs, phenol, styrene, toluene, and xylene). JCDH uses federal standards developed by EPA to reduce, control, or eliminate air toxics and protect public health. These standards are mainly National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Maximum Allowable Control Technology (MACT). In addition, the Department assures that the air in Jefferson County meets federal clean air standards. Currently, the county is designated as attaining all such standards. For more information on these standards visit <http://www.epa.gov/ttn/atw/mactfnlalp.html>.

In addition, a relatively recent assessment of air toxics conducted (School Air Toxics Study) by the USEPA in Tarrant City, with the monitoring site located at Tarrant Elementary School, yielded concentrations of benzene, arsenic, lead, and benzo(a)pyrene that were found to be below levels of concern, levels at which adverse health effects have been observed. Levels of lead, a pollutant for which there are national standards for ambient (outdoor) air, are below the level of the national standard for protection of public health. Levels of pollutants associated with coke plant emissions, including benzene, arsenic, and benzo(a)pyrene and associated longer-term concentration estimates were not as high as suggested by the information available prior to monitoring. Although they were below the levels of significant concern that had been suggested by the modeling information, these results indicate the influence of these pollutants of concern emitted from nearby sources. As a result, the air toxics monitoring study was not extended at this school or in this area. This information can be found at <http://www.epa.gov/schoolair/schools.html>.

QUESTIONS & COMMENTS FROM PUBLIC COMMENT PERIOD AND PUBLIC HEARING  
FOR ABC COKE

**26) Comment #26 (Pages 94-98)**

The Department appreciates your comment and concern for the community.

With respect to the extension of the comment period, the Department has extended the comment period past comment period minimum of 30 days. For ABC Coke, the comment period started on Sunday, February 9<sup>th</sup> and ended on Friday, April 18<sup>th</sup>.

Regarding notifications for the public hearing, the Department placed notifications in the newspaper, on our website, at Tarrant City Hall, and as communicating during the two (2) public information meetings.

With respect to interpreter services, the Department will provide such services for future similar occasions.

## **Exhibit 4**

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### **JCDH Permit Evaluation for ABC Coke**

Jefferson County Department of Health  
Environmental Health Services  
Air and Radiation Protection Division

**Title V Operating Permit Evaluation**  
ABC Coke (Coke By-Products Plant and Utilities Plant)

November 7, 2013

**Introduction**

On May 15, 2013, ABC Coke submitted permit applications for a Renewal Title V Major Source Operating Permit for a coke by-products manufacturing facility and a utilities production facility. The standard industrial classification codes (SICs) for the coke by-products plant, the utilities production plant, and the wastewater treatment plant are 2999, 4939, and 4952, respectively. The plant is located at Alabama Street and Huntsville Avenue, Tarrant, Alabama 35217. Mark Poling, Manager, Engineering (ABC Coke Division), is the designated environmental plant contact concerning permit applications and plant operations.

The coke-by product plant produces coke and by products that are either sold or used in the coking process while the utilities plant provides essential utility services for the rest of the facility. The wastewater treatment plant is utilized to treat the process wastewaters emanating from the various processes at ABC Coke.

Total combined process/source emissions result in classification of the facility as an actual major source of particulate matter (PM), sulfur oxides (SO<sub>x</sub>), nitrogen oxide (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOCs), and hazardous air pollutants (HAP). In the year 2012, total facility actual emissions of the above pollutants were estimated to be 483.51 tpy, 1950.47 tpy, 1071.69 tpy, 763.004 tpy, 147.70 tpy, and 31.09 tpy, respectively.

The coke by-products manufacturing plant is subject to several federal National Emissions Standards for Hazardous Air Pollutants (NESHAPs). These include Subpart L (NESHAPs for Benzene Emissions from Coke By-Product Recovery Plants) of 40 CFR 61; Subpart V (NESHAPs for Equipment Leaks (Fugitive Emissions Sources)) of 40 CFR 61; Subpart FF (NESHAPs for Benzene Waste Operations) of 40 CFR 61; Subpart L (NESHAPs for Coke Oven Batteries) of 40 CFR 63; and Subpart CCCCC (NESHAPs for Coke Ovens: Pushing, Quenching, and Battery Stacks) of 40 CFR 63.

All equipment at the coke by-products facility is classified as existing.

One boiler is subject to Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units) of 40 CFR 60 but not subject to 40 CFR 63 (SDs), as coke oven gas (COG) is regulated under 40 CFR, Subpart L and exempted under 63.7491. The stack particulate emissions from all of the processes associated with the plants are subject to the general process industries requirements under

Part 6.4 of the Jefferson County Board of Health Air Pollution Control Rules and Regulations ("Regulations"), with the exclusion of stack particulate emissions from the underfire stacks and boiler stacks. Underfire stack emissions are subject to the requirements under Part 6.9 of the Regulations. Boiler stack emissions are subject to the requirements under Part 6.3 of the Regulations. Visible emissions are subject to the requirements under Part 6.1 of the Regulations. Fugitive emissions are subject to the requirements under Part 6.2 of the Regulations.

### **Coke By-Products Manufacturing Plant**

#### **Introduction**

Furnace and foundry coke are prepared by heating blended coal masses (coal, breeze, other constituents) in "ovens" for extended periods of time at elevated temperatures (2000+ °F). Several sets of ovens comprise and form the individual coke "batteries." ABC Coke operates three (3) by-product coke batteries. They are labeled as Coke Battery No. 1, Coke Battery No. 5, and Coke Battery No. 6. Respectively, the coke batteries have 78, 25, and 29 ovens.

#### **Process**

The discharge of coal from the hoppers on top of the ovens is "staged" by controlling the sequence in which each hopper is emptied to avoid peaks of coal that may block the space above the coal, which hinders the removal of gases generating during charging. Near the end of the charging sequence, peaks of coal in the oven are leveled by a steel bar from the pusher machine through a small door ("chuck door") on the side of the oven. This leveling process aids in uniform coking and provides a clear vapor space and exit tunnel for the gases that evolve during coking to flow to the gas collection system. After the oven is charged with coal, the chuck door is closed, the lids are placed back on the charging ports and sealed ("luted") with a wet clay mixture, the aspiration is turned off, and the gases are directed into the offtake system and collecting main.

Thermal distillation takes place in each of the ovens of their respective batteries. The wall separating adjacent ovens, as well as each end wall, is made up of a series of heating flues. At any one time, half of the flues in a given wall will be burning gas while the other half will be conveying waste heat from the combustion flues to a "checker brick" heat exchanger and then to the combustion stack. The operation of each oven is cyclic and each battery contains a sufficiently large number of ovens to produce an essentially continuous flow of raw coke oven gas. Individual ovens are charged and emptied at approximately equal time intervals during the coking cycle. Furnace coking time periods are typically around twenty (20) hours. Foundry coking time periods are typically around twenty four (24) hours. Air is prevented from leaking into the ovens by maintaining a positive back pressure in the collection main. The gases and hydrocarbons that evolve during the thermal distillation are removed through the offtake system and sent to the byproduct plant for recovery.

Once the coal is properly carbonized, the coke in the oven is ready to be removed. The coke is pushed through a coke guide into the quench car. The quench car carries the coke to a quench tower where water is dumped on the coke as a cooling process. The

### **Emissions**

Emissions from the coke ovens include PM, SO<sub>x</sub>, NO<sub>x</sub>, VOCs, CO, and numerous organic compounds, including polycyclic organic matter (POM). PM is emitted from raw coal unloading, storage, and handling; mixing, crushing, and screening; blending; charging; leaks from doors, lids, and offtakes during coking; soaking, pushing coke from the oven; hot coke quenching; combustions stacks; and coke crushing, sizing, screening, handling, and storage. Volatile organic compounds are emitted from coke oven leaks, coke pushing, and coke quenching. Sulfur dioxide, nitrogen oxides, and carbon monoxide are also emitted from coke oven leaks. Organic compounds soluble in benzene (BSO) are the major constituents of the PM emissions and are also included as VOCs. Among the hazardous air pollutants (HAPs) included in the VOCs are benzene, toluene, xylenes, cyanide compounds, naphthalene, phenol, and POM, all of which are contained in coke oven gas. Emissions from the byproduct plant are primarily benzene and other light aromatics, POMs, cyanides, phenols, and light oils. Other emission sources include operations such as boilers, wastewater treatment, cooling towers, and roads.

Controls for the coke plant consist of operation and maintenance practices (work practice standards) to reduce emissions, and application of control devices to specific operations in the coke-making and byproduct recovery processes. Operation and maintenance practices include steam aspiration, staged charging to reduce charging leaks, and sealing of doors, lids, and offtakes at joints that may leak. A control for pushing and coke-side door leaks, the hood is constructed along the coke side of the battery. The hood is ducted to a PM control device, typically a baghouse. Quenching emissions are controlled by installing baffles in the quench tower to impede PM flow, and use of clean water (recycled water that does not include process water) for quenching. For by-products, the primary control is gas blanketing. Fugitive particulate emissions from coal and coke piles are controlled by surfactants (which bind the particles together) and an elevated sprinkler system which can mimic a rainfall event during dry periods to minimize conditions which can lead to fugitive particulate emissions. Further, particulate emissions from plant roads are controlled by the use of vacuum and water trucks.

### Utilities

The Utilities facility primarily consists of three (3) boilers that primarily burn Coke Oven Gas (COG). The back-up fuel for these three (3) boilers is natural gas.

Pollutants emitted from the Utilities Plant include volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), particulate matter (PM) emissions, and carbon monoxide (CO) with no controls applied. Currently, permitted boilers are included in Table 1 above.

AFS Sources Classification Codes (SCC)	
SCC	Process
1-02-006-01	>100 Million BTU/Hr Natural Gas Combustion
1-02-005-01	Fuel Oil Combustion (Grades 1 and 2)
1-02-007-07	Coke Oven Gas Combustion
3-03-003-02	Oven Charging
3-03-003-03	Oven Pushing
3-03-003-04	Quenching
3-03-003-05	Coal Unloading
3-03-003-06	Oven Underfiring
3-03-003-07	Coal Crushing/Handling
3-03-003-08	Oven/Door Leaks
3-03-003-09	Coal Conveying
3-03-003-10	Coal Crushing
3-03-003-11	Coal Screening
3-03-003-12	Coke: Crushing/Screening/Handling
3-03-003-13	Coal Preheater
3-03-003-14	Topside Leaks
3-03-003-15	Gas By-Product Plant
3-03-003-16	Coal Storage Pile
3-03-003-17	Combustion Stack: Coke Oven Gas (COG)
3-03-003-31	By-Product Manufacturing
3-03-003-32	Flushing Liquor Circulation Tank
3-03-003-33	Excess-Ammonia Liquor Tank
3-03-003-34	Tar Dehydrator
3-03-003-35	Tar Interceding Sump
3-03-003-36	Tar Storage
3-03-003-41	Light Oil Sump
3-03-003-42	Light Oil Decanter/Condenser Vent
3-03-003-43	Wash Oil Decanter
3-03-003-44	Wash Oil Circulation Tank
3-03-003-51	By-Product Coke Manufacturing
3-03-003-52	Tar Bottom Final Cooler
3-03-003-53	Naphthalene Processing/Handling

**Emissions Summary**

Please see the attached facility-wide emissions for 2012. Emissions were derived from information submitted in the permit application and the latest production data submittal.

The facility is an actual major source of particulate matter emissions, nitrogen oxide emissions, sulfur oxide emissions, hazardous air pollutant emissions (including coke oven emissions), carbon monoxide emissions, and volatile organic compound emissions. The major source threshold for PM, SO<sub>x</sub>, CO, NO<sub>x</sub>, and VOC is 100 tons per year. The major source threshold for a single HAP emission pollutant is 10 tons per year or 25 tons per year for a combination of HAP emission pollutants. Total source HAP emissions emanating from the facility exceed both the single HAP limit and the combined HAP limit. Coke oven emissions are classified as HAPs and are the predominant source of HAP emissions.

For the Green House Gas Mandatory Reporting Rule (40 CFR 98), the applicability threshold for an existing Title V Major Source is greater than or equal to 100,000 tons per year of CO<sub>2</sub>e. ABC Coke is subject to this rule and the respective reporting. Mandatory reporting is made directly to EPA and is not an enforceable requirement of this Title V Major Source Operating Permit.

**Pollution Prevention (P2)**

In 2007, ABC Coke implemented a Pollution Prevention (P2) strategy to control particulate matter (PM) from all sources. In mid-2007, the capture capabilities of the pushing emission controls (bag houses) were voluntarily increased by 200%. Even though this improvement was not required by regulation, the operations and maintenance (O&M) of the resulting enhanced system was significantly increased to comply with applicable regulations.

In 2008, all roads were paved and are subsequently maintained daily by a vacuum street-sweeper and spray truck dispersing water with dust control additives to manage particulates from roads and stockpiles.

In 2009, construction began on a comprehensive dust control sprinkler system with the capability of providing 2/10" of rain equivalent twice/day on all stockpile areas. This sprinkler system is capable of achieving a 98% control of particles according to the EPA's miscellaneous control factors for particulates. Developing a system to cover the 23 acres of stock pile required several years of construction and the project was completed in 2013.

In previous permit cycles, ABC Coke has concentrated its P2 strategies in the by-product areas of the plant. As with the bag houses, voluntary preventative measures were also taken to enhance systems within the by-products area. While not required by regulations, two major storage facilities, light oil and excess liquid, were voluntarily sealed using gas-

blanketing technologies. In order for the enhanced systems to comply with applicable regulations, new and more extensive O&M requirements were necessary.

#### **Title V Major Source Operating Permit Evaluation**

The Air Pollution Control Program of Jefferson County, Alabama received interim approval by EPA to evaluate and issue Title V Major Source Operating Permits on December 15, 1995. The Air Pollution Control Program received full approval by EPA on October 29, 2001. Chapter 18 of the Regulations contains the rules and regulations pertaining to the issuance of Title V Major Source Operating Permits.

ABC Coke is located in an area (Jefferson County, Alabama) which is classified as an attainment area for all National Ambient Air Quality Standards (NAAQS).

The facility is an actual major source of PM emissions, SOx emissions, CO emissions, VOC emissions, NOx emissions, and single/combination HAP emissions. Coke oven emissions are the predominant HAP emissions. Refer to Appendix D of the Regulations for the list of regulated HAPs. Paragraph 18.1.1(q) of the air regulations defines a major air pollution emissions source. Other HAPs emitted from this facility include a plethora of organics, heavy metals, and polycyclic matter.

#### **New Source Performance Standards (NSPS) – 40 CFR 60**

Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.)

The coke by-products manufacturing plant contains several storage vessels (per Title V application). They are as follows:

<b>Tank ID</b>	<b>Product Storage</b>	<b>Capacity (gallons)</b>
ABC02	Light Oil	7,600
ABC03	Tar	172,748
ABC04	Tar	126,917
ABC06	Residual Oil	200
ABC07	Cylinder Oil #2	200
ABC10	Wash Oil	13,500
ABC13	Nalco Chlorine Enhancer	324
ABC15	Unleaded Gasoline	1,000
ABC16	Low Sulfur Diesel Fuel	990
ABC17	Diesel Fuel	18,000
ABC18	Diesel Fuel	17,000
ABC22	Diesel Fuel	450

Tanks ABC04, ABC06, ABC07, ABC17, and ABC18 were all installed prior to the applicability date of Subpart Kb. They, accordingly, would not be subject to this

regulation: Even though Tanks ABC02, ABC16, ABC22, and ABC15 were installed/constructed after the applicability date of Subpart Kb, their storage capacities are below the minimum applicable storage capacity of 40 m<sup>3</sup> and, accordingly, would not be subject to this standard. Tank ABC13 also would not be subject because of storage capacity. Tanks ABC03 and ABC15 do meet the installation date and storage requirement applicability requirements of Subpart Kb, however they do not storage "true" volatile organic liquids and would not be subject to this standard.

#### **Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units)**

The utilities plant contains several boilers (per Title V application). They are as follows:

<b>ID</b>	<b>Rated Heat Capacity (MMBTU/Hr)</b>
Boiler #7	204
Boiler #8	204
Boiler #9	174

Only Boiler No. 9 is subject to Subpart Db of 40 CFR 60 since it was constructed after the applicability date. Even though Subpart Db primarily pertains to coal and oil combustion, coke oven gas is defined as coal (per EPA determination). Boiler No. 9 combusts coke oven gas and natural gas. Accordingly, Boiler No. 9 is subject to applicable requirements of this subpart as well as all of the following:

<b>Pollutant</b>	<b>Regulatory Emission Limit</b>	<b>Applicable Standard</b>
Visible Emissions (VE)	20 % Opacity	Section 6.1.1
Particulate Matter (PM)	24.81 lb/hr	Section 6.4.1
Sulfur Dioxide (SO <sub>2</sub> )	1.8 lbs/MMBTU of Heat Input	Section 7.1.1
Sulfur Dioxide (SO <sub>2</sub> )	1.20 lb/MMBTU of Heat Input	Subpart Db
Sulfur Dioxide (SO <sub>2</sub> )	193.30 lb/hr	NSR

#### **Subpart PP (Standard of Performance for Ammonium Sulfate Manufacturing)**

Coke oven byproduct ammonium sulfate is produced by reacting the ammonia recovered from coke oven off-gas through the ammonia absorber and ammonia still. This in turn is reacted with sulfuric acid. In ammonium sulfate manufacturing, ammonium sulfate crystals are formed by circulating the ammonium sulfate liquor through a water evaporator, which thickens the solution. Ammonium sulfate crystals are separated from the liquor in a centrifuge and dryer. The crystals, which contain about 1 to 2.5 percent moisture by weight after the centrifuge, are fed to fluidized-bed dryers that are continuously steam heated. Finally, the ammonium sulfate is stored in storage silos for shipment. Air-born particulate matter is collected by 19,500 scfm baghouse.

The ammonium sulfate manufacturing process will be subject to Section 6.1.1 of the Rules and Regulations with a 20% opacity restriction. Under Part 6.4 of the Rules and Regulations, the process will be subject to a particulate matter restriction of 17.19 pounds per hour emissions limit. Under the NSPS, the process will be limited to 0.30 lb/ton emissions rate and a 15% opacity limitation.

### **National Emissions Standards for Hazardous Air Pollutants (NESHAPs)**

Several NESHAPs are applicable to processes/operations at the coke by-product manufacturing plant. The following is a listing of these applicable standards:

- Subpart L (National Emission Standard for Benzene Emissions from Coke By-Products Recovery Plant) of 40 CFR 61;
- Subpart V (National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of 40 CFR 61;
- Subpart FF (National Emission Standard for Benzene Waste Operations) of 40 CFR 61;
- Subpart L (National Emission Standard for Coke Oven Batteries) of 40 CFR 63; and
- Subpart CCCCC (National Emission Standard for Coke Ovens: Pushing, Quenching, and Battery Stacks) of 40 CFR 63.
- Subpart ZZZZ (National Emission Standard stationary reciprocating internal combustion engines(RICE)).

With respect to the finalized NESHAP standards, ABC Coke is currently in compliance.

### **Jefferson County Department of Health Air Pollution Control Rules and Regulations**

Parts of the Rules and Regulations are applicable to processes at the coke by-products manufacturing plants, and utilities manufacturing plant. They are listed as follows:

- Part 6.3 – Control of Particulate Emissions – Fuel Burning Equipment
- Part 6.4 – Control of Particulate Emissions – Process Industries – General
- Part 6.9 – Control of Particulate Emissions – Coke Ovens
- Part 7.1 – Control of Sulfur Compound Emissions – Fuel Combustion
- Part 8.3 – Control of Volatile Organic Compound Emissions – Loading and Storage of VOC
- Part 8.26 – Control of Volatile Organic Compound Emissions - Leaks from Coke By-Product Recovery Plant Equipment
- Part 8.27 – Control of Volatile Organic Compound Emissions – Emissions from Coke By-Product Recovery Plant Coke Oven Gas Bleeder

The facility's operations are actual major sources of HAP emissions. A major source of HAP emissions is defined in Subdivision 18.1.1(q)(1)(i) of the air regulations as having HAP emissions of 10 tons or more per year of any single HAP and 25 tons or greater for any combination of HAP emissions that are found on the list of 188 compounds in section 112(b) of the Clean Air Act Amendments (CAAA) enacted in November of 1990. Refer to Appendix D of the air regulations for this same list of HAPs. The facility's individual HAP emissions are listed in the permit applications.

#### **Permit Conditions**

The proposed emissions units are as follows:

<b>Emissions Unit No.</b>	<b>Description of Emissions Units</b>
001	Boiler No. 9, NSPS, Part 60, Subpart Db
002	Coke Battery No. 6 – Coking and Charging, NESHAP, Part 63, Subpart L, NESHAP, Part 63, Subpart CCCCC
003	Coke Battery No. 5 – Coking and Charging, NESHAP, Part 63, Subpart L, NESHAP, Part 63, Subpart CCCCC
004	Coke Battery No. 1 – Coking and Charging, NESHAP, Part 63, Subpart L, NESHAP, Part 63, Subpart CCCCC
005	Coke By-Products Recovery Plant with Gas Blanketing, NESHAP, Part 61, Subparts FF, L, and V
007	Underfire Stack No. 4 Associated with Coking Batteries Nos. 5 and 6, NESHAP, Part 63, Subpart CCCCC
008	Underfire Stack No. 1 Associated with Coking Battery No. 1, NESHAP, Part 63, Subpart CCCCC
018	South Coke Quenching Tower, NESHAP, Part 63, Subpart CCCCC
019	Boiler No. 8
020	Boiler No. 7
024	North Coke Quenching Tower, NESHAP, Part 63, Subpart CCCCC
031	Flare
032	Coke Pushing Operations of Coking Batteries Nos. 1, 5 and 6, NESHAP, Part 63, Subpart CCCCC
034	Ammonium Sulfate Manufacture, NSPS, Part 60, Subpart PP
035	Emergency Generator No. 1, NESHAP, Part 63, Subpart ZZZZ
036	Emergency Generator No. 2, NESHAP, Part 63, Subpart ZZZZ

The facility is an actual major source of PM, VOC, SO<sub>x</sub>, CO, NO<sub>x</sub>, and HAP emissions and is subject to the requirements of Chapter 18, entitled "Major Source Operating Permits," of the air regulations. It will comply with the requirements of Chapter 18 by obtaining an operating permit. The Title V Operating Permit will have 15 individual emissions unit sections. Each regulated emission unit and the applicable regulations of the proposed Title V Major Source Operating Permit are itemized as follows:

1. Coke By-product Recovery Plant and Associated Equipment.

Emission Unit 005

Applicable Regulations:

Part 1.3	Definitions
Section 1.5.15	Recordkeeping and Reporting
Section 2.1.3	Permit Conditions
Chapter 4	Episode Plan during an Air Pollution Emergency
Part 6.1	Visible Emissions
Section 8.26.3	Leaks from By-Product Recovery Plants – General Requirements
Section 8.26.4	Leaks from By-Product Recovery Plants – Pumps
Section 8.26.5	Leaks from By-Product Recovery Plants – Valves in Gas and Light Liquid Service
Section 8.26.6	Leaks from By-Product Recovery Plants – Pressure Relief Valves in Gas Service
Section 8.26.7	Leaks from By-Product Recovery Plants – Open Ended Valves
Section 8.26.8	Leaks from By-Product Recovery Plants – Delay of Repair
Section 8.26.9	Leaks from By-Product Recovery Plants – Napthalene Separation Unit Emissions
Section 8.26.10	Leaks from By-Product Recovery Plants – Recordkeeping Requirements
Section 8.26.11	Leaks from By-Product Recovery Plants – Reporting Requirements
Section 8.26.12	Leaks from By-Product Recovery Plants – Modification of Monitoring, Recordkeeping, and Reporting Requirements
Section 8.27.2	Coke Oven Gas Bleeder System – Emissions Capture and Control
Section 8.27.3	Coke Oven Gas Bleeder System – Monitoring
Section 8.27.4	Coke Oven Gas Bleeder System - Monitoring
Chapter 16	Major Source Operating Permit Emissions Fees
Chapter 18	Major Source Operating Permits
Section 18.2.4	Permit Conditions
Section 18.2.8	Testing
40 <u>CFR</u> 60	Testing Methods
40 <u>CFR</u> 61	Subparts L and V
40 <u>CFR</u> 61	Subpart FF

2. Coke Battery No. 1 – Coking and Charging

Emission Unit No. 004

Applicable Regulations:

Part 1.3	Definitions
Section 1.5.15	Recordkeeping and Reporting
Section 2.1.3	Permit Conditions
Chapter 4	Episode Plan during an Air Pollution Emergency

- Part 6.1 Visible Emissions
  - Part 6.2 Fugitive Dust and Odors
  - Part 6.4 Process Industries - General
  - Section 6.9.3 Control of Particulate Emissions – Charging
  - Section 6.9.5 Control of Particulate Emissions – Topside
  - Section 6.9.6 Control of Particulate Emissions – Coke Oven Doors
  - Section 6.9.7 Control of Particulate Emissions – Oven Maintenance
  - Chapter 16 Major Source Operating Permit Emissions Fees
  - Chapter 18 Major Source Operating Permits
  - Section 18.2.4 Permit Conditions
  - Section 18.2.8 Testing
  - 40 CFR 60 Testing Methods
  - 40 CFR 63 Subparts A & L
  - 40 CFR 63 Subpart CCCCC
3. Coke Battery No. 5 – Coking and Charging
- Emission Unit No. 003
- Applicable Regulations:
- Part 1.3 Definitions
  - Section 1.5.15 Recordkeeping and Reporting
  - Section 2.1.3 Permit Conditions
  - Chapter 4 Episode Plan during an Air Pollution Emergency
  - Part 6.1 Visible Emissions
  - Part 6.2 Fugitive Dust and Odors
  - Part 6.4 Process Industries - General
  - Section 6.9.3 Control of Particulate Emissions – Charging
  - Section 6.9.5 Control of Particulate Emissions – Topside
  - Section 6.9.6 Control of Particulate Emissions – Coke Oven Doors
  - Section 6.9.7 Control of Particulate Emissions – Oven Maintenance
  - Chapter 16 Major Source Operating Permit Emissions Fees
  - Chapter 18 Major Source Operating Permits
  - Section 18.2.4 Permit Conditions
  - Section 18.2.8 Testing
  - 40 CFR 60 Testing Methods
  - 40 CFR 63 Subparts A& L
  - 40 CFR 63 Subparts CCCCC
4. Coke Battery No. 6 – Coking and Charging
- Emission Unit No. 002
- Applicable Regulations:
- Part 1.3 Definitions
  - Section 1.5.15 Recordkeeping and Reporting
  - Section 2.1.3 Permit Conditions
  - Chapter 4 Episode Plan during an Air Pollution Emergency
  - Part 6.1 Visible Emissions

- Part 6.2 Fugitive Dust and Odors
  - Part 6.4 Process Industries – General
  - Section 6.9.3 Control of Particulate Emissions – Charging
  - Section 6.9.5 Control of Particulate Emissions – Topside
  - Section 6.9.6 Control of Particulate Emissions – Coke Oven Doors
  - Section 6.9.7 Control of Particulate Emissions – Oven Maintenance
  - Chapter 16 Major Source Operating Permit Emissions Fees
  - Chapter 18 Major Source Operating Permits
  - Section 18.2.4 Permit Conditions
  - Section 18.2.8 Testing
  - 40 CFR 60 Testing Methods
  - 40 CFR 63 Subparts A & L
  - 40 CFR 63 Subparts CCCCC
  
- 5. Underfire Stack Number 4 Associated with Coke Battery Nos. 5 and 6
  - Emission Unit No. 007
  - Applicable Regulations:
    - Part 1.3 Definitions
    - Section 1.5.15 Recordkeeping and Reporting
    - Section 2.1.3 Permit Conditions
    - Chapter 4 Episode Plan during an Air Pollution Emergency
    - Part 6.1 Visible Emissions
    - Part 6.3 Fuel Burning Equipment
    - Section 6.9.8 Control of Particulate Emissions – Combustion Stacks
    - Chapter 16 Major Source Operating Permit Emissions Fees
    - Chapter 18 Major Source Operating Permits
    - Section 18.2.4 Permit Conditions
    - Section 18.2.8 Testing
    - 40 CFR 60 Testing Methods
    - 40 CFR 63 Subparts A & CCCCC
  
- 6. Underfire Stack Number 1 Associated with Coke Battery No. 1
  - Emission Unit No. 008
  - Applicable Regulations:
    - Part 1.3 Definitions
    - Section 1.5.15 Recordkeeping and Reporting
    - Section 2.1.3 Permit Conditions
    - Chapter 4 Episode Plan during an Air Pollution Emergency
    - Part 6.1 Visible Emissions
    - Part 6.3 Fuel Burning Equipment
    - Section 6.9.8 Control of Particulate Emissions – Combustion Stacks
    - Chapter 16 Major Source Operating Permit Emissions Fees
    - Chapter 18 Major Source Operating Permits
    - Section 18.2.4 Permit Conditions
    - Section 18.2.8 Testing

- 40 CFR 60                      Testing Methods
- 40 CFR 63                      Subparts A & CCCCC

7. South Coke Quenching Tower

Emission Unit No. 018

Applicable Regulations:

- Part 1.3                      Definitions
- Section 1.5.15              Recordkeeping and Reporting
- Section 2.1.3              Permit Conditions
- Chapter 4                   Episode Plan during an Air Pollution Emergency
- Part 6.1                      Visible Emissions
- Section 6.9.8              Control of Particulate Emissions – Quenching
- Chapter 16                  Major Source Operating Permit Emissions Fees
- Chapter 18                  Major Source Operating Permits
- Section 18.2.4              Permit Conditions
- Section 18.2.8              Testing
- 40 CFR 60                   Testing Methods
- 40 CFR 63                   Subparts A & CCCCC

8. North Coke Quenching Tower

Emission Unit No. 024

Applicable Regulations:

- Part 1.3                      Definitions
- Section 1.5.15              Recordkeeping and Reporting
- Section 2.1.3              Permit Conditions
- Chapter 4                   Episode Plan during an Air Pollution Emergency
- Part 6.1                      Visible Emissions
- Section 6.9.8              Control of Particulate Emissions – Quenching
- Chapter 16                  Major Source Operating Permit Emissions Fees
- Chapter 18                  Major Source Operating Permits
- Section 18.2.4              Permit Conditions
- Section 18.2.8              Testing
- 40 CFR 60                   Testing Methods
- 40 CFR 63                   Subpart A & CCCCC

9. Coke Pushing Operations of Coke Battery Nos. 1, 5, and 6

Emission Unit No. 032

Applicable Regulations:

- Part 1.3                      Definitions
- Section 1.5.15              Recordkeeping and Reporting
- Section 2.1.3              Permit Conditions
- Chapter 4                   Episode Plan during an Air Pollution Emergency
- Part 6.1                      Visible Emissions
- Part 6.2                      Fugitive Dust and Odors

Section 6.9.4	Control of Particulate Emissions – Pushing
Chapter 16	Major Source Operating Permit Emissions Fees
Chapter 18	Major Source Operating Permits
Section 18.2.4	Permit Conditions
Section 18.2.8	Testing
40 <u>CFR</u> 60	Testing Methods
40 <u>CFR</u> 63	Subparts A & CCCCC

10. Boiler Number 7

Emission Unit No. 020

Applicable Regulations:

Part 1.3	Definitions
Section 1.5.15	Recordkeeping and Reporting
Section 2.1.3	Permit Conditions
Chapter 4	Episode Plan during an Air Pollution Emergency
Part 6.1	Visible Emissions
Part 6.3	Control of Particulate Emissions – Fuel Burning Equipment
Part 7.1	Control of Sulfur Compound Emissions – Fuel Combustion
Chapter 16	Major Source Operating Permit Emissions Fees
Chapter 18	Major Source Operating Permits
Section 18.2.4	Permit Conditions
Section 18.2.8	Testing
40 <u>CFR</u> 60	Testing Methods

11. Boiler Number 8

Emission Unit No. 019

Applicable Regulations:

Part 1.3	Definitions
Section 1.5.15	Recordkeeping and Reporting
Section 2.1.3	Permit Conditions
Chapter 4	Episode Plan during an Air Pollution Emergency
Part 6.1	Visible Emissions
Part 6.3	Control of Particulate Emissions – Fuel Burning Equipment
Part 7.1	Control of Sulfur Compound Emissions – Fuel Combustion
Chapter 16	Major Source Operating Permit Emissions Fees
Chapter 18	Major Source Operating Permits
Section 18.2.4	Permit Conditions
Section 18.2.8	Testing
40 <u>CFR</u> 60	Testing Methods

12. Boiler Number 9

Emission Unit No. 001

Applicable Regulations:

- |                  |   |
|------------------|---|
| Part 1.3         | Definitions   |
| Section 1.5.15   | Recordkeeping and Reporting                               |
| Section 2.1.3    | Permit Conditions   |
| Chapter 4        | Episode Plan during an Air Pollution Emergency            |
| Part 6.1         | Visible Emissions   |
| Part 6.3         | Control of Particulate Emissions – Fuel Burning Equipment |
| Part 7.1         | Control of Sulfur Compound Emissions – Fuel Combustion    |
| Chapter 16       | Major Source Operating Permit Emissions Fees              |
| Chapter 18       | Major Source Operating Permits                            |
| Section 18.2.4   | Permit Conditions   |
| Section 18.2.8   | Testing   |
| 40 <u>CFR</u> 60 | Testing Methods   |
| 40 <u>CFR</u> 60 | Subpart Db  |
13. Coal Conveying System, Dust Collector and Dust Collection System for Coal Blending, Storage and Handling Facility
- Emission Unit No. 033
- Applicable Regulations:
- |                  |   |
|------------------|---|
| Part 1.3         | Definitions   |
| Section 1.5.15   | Recordkeeping and Reporting                                   |
| Section 2.1.3    | Permit Conditions   |
| Part 6.1         | Visible Emissions   |
| Part 6.4         | Control of Particulate Emissions – Process Industries-General |
| Chapter 16       | Major Source Operating Permit Emissions Fees                  |
| Chapter 18       | Major Source Operating Permits                                |
| Section 18.2.4   | Permit Conditions   |
| Section 18.2.8   | Testing   |
| 40 <u>CFR</u> 60 | Testing Methods   |
13. Flare
- Emission Unit No. 031
- Applicable Regulations:
- |                  |  |
|------------------|--|
| Part 1.3         | Definitions                                  |
| Section 1.5.15   | Recordkeeping and Reporting                  |
| Section 2.1.3    | Permit Conditions                            |
| Part 6.1         | Visible Emissions                            |
| Chapter 16       | Major Source Operating Permit Emissions Fees |
| Chapter 18       | Major Source Operating Permits               |
| Section 18.2.4   | Permit Conditions                            |
| Section 18.2.8   | Testing                                      |
| 40 <u>CFR</u> 60 | Testing Methods                              |

### **Recommendations**

No notification of the issuance of this major source operating permit is required to be sent to any affected state bordering Alabama since no affected states are within 50 miles of ABC Coke. Refer to Section 18.15.2 of the Regulations for this affected state notification requirement and to Paragraph 18.1.1(c) of the Regulations for the definition of an affected state.

### **Recommended Permitting Fees**

No permitting fees are required since the source is a Title V facility pursuant to Chapter 18 of the Rules and Regulations.

### **Public and USEPA Review Procedures**

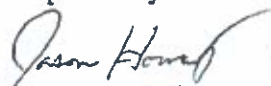
In accordance with Sections 18.15.1 and 18.15.3 of the Regulations and an interagency agreement, the USEPA is allowed to 45 days after the receipt (or prior to issuance of the permit) of the proposed major source operating permit (including applications and any other technical document requested) to review, comment, or object to the issuance of this operating permit.

The permittee will also be sent a copy of the draft permit to review and submit comments (Paragraph 18.15.1(a) of the Regulations.)

A 30-day public comment period advertisement will be published in a local newspaper and posted to Department's website to allow the public the opportunity to participate in the Title V permitting process as required by Section 18.15.4 of the Regulations. The Alabama Department of Environmental Management (ADEM) will be sent copies of this Department's preliminary operating permit evaluation, public notice, and proposed draft permit. ADEM has 30 days to review and comment on the permit applications and draft-operating permit as allowed by Section 18.2.7 of the Regulations.

After the appropriate comment periods (public, permittee, EPA, and ADEM), if no changes in the draft permit are necessary due to significant comments or objections and it is determined that the facility is in compliance with all applicable standards, it is recommended that ABC Coke (Coke By-Product Manufacturing Plant and Utilities Manufacturing Plant) be issued a Title V Major Source Operating Permit. The plant will be expected to comply with all applicable federal, state, and local regulations. Refer to the attached draft Major Source Operating Permit for the recommended permit conditions.

Prepared By:



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Air & Radiation Protection Program